DOCUMENT RESUME

ED 116 091 CG 010 260

AUTHOR	Noam, Ernst
TITLE	Homes for the Aged: Supervision and Standards. A Report on the Legal Situation in European Countries.
INSTITUTION	Administration on Aging (DHEW), Washington, D.C. National Clearinghouse on Aging.
SPONS AGENCY	International Center for Social Gerontology, Paris (France).
REPORT NO	DHEW-OHD-75-20104
PUB DATE	Jun 75
NOTE	99p.; Translated from German by John S. Monks
AVAILABLE FROM	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (HC $1.65)
EDRS PRICE	MF-$0.76 HC-$4.43 Plus Postage
DESCRIPTORS	Certification; Comparative Analysis; *Cross Cultural Studies; Facilities; Inspection; Legal Responsibility; Legislation; *Older Adults; *Personal Care Homes; Policy Formation; *Public Policy; *Standards; Supervision; Surveys
IDENTIFIERS	*Europe

ABSTRACT

The International Center for Social Gerontology (ICSG) is making available this translation of a timely study by Ernst Noam which describes and compares legislation, policies, and procedures for licensing, supervision, and inspection of homes for the aged in various Western and Eastern European nations. This study is presented to help provide a further understanding of the common goals and objectives contained in both European and American enactments affecting the elderly in institutions, as well as to help illustrate how policies and procedures to implement these goals and objectives may vary according to the social, economic, and political influences prevailing in each country. It is our hope that this report will be useful to public officials and professionals concerned with legal standards and social programs which safeguard and enhance the dignity and freedom of the Nation's elderly in need of institutional care. (Author)

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Homes for the Aged:

Supervision and Standards

A REPORT ON THE LEGAL SITUATION IN EUROPEAN COUNTRIES

by

ERNST NOAM

Translated from German by

JOHN S. MONKS

DHEW Publication No. (OHD) 75-20104

CG 010 260

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Office of Human Development • Administration on Aging
National Clearinghouse on Aging

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 - Price $1.65

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Foreword

TODAY, in both Europe and the United States, public policy places emphasis on providing health care and social services to enable older people to live independently for as long as they desire to do so. At the same time public authorities on both continents have assumed a more active role in enacting legislation and in issuing administrative regulations to ensure that the elderly who live in institutional or semi-institutional settings are provided with a safe, decent, and stimulating environment. In this regard, public responsibility here and abroad has been exercised largely by developing standards for licensing, supervision, and inspection of these institutions and by intervening to correct or curtail their activities when they fail to meet minimum standards for housing construction, living accommodations, health care, or occupational and recreational facilities.

Although we in the United States have access to ample information on our own legal requirements for institutions for the aged, we often have difficulty in obtaining English-language references on similar standards in force in European countries. As a result, the International Center for Social Gerontology (ICSG) is making available this translation of a timely study by Ernst Noam which describes and compares legislation, policies, and procedures for licensing, supervision, and inspection of homes for the aged in various Western and Eastern European nations. Mr. Noam has practiced law in Germany, has served as director of a home in Switzerland, and now in retirement devotes his time to research and writing. He is the author of *Life in a Home for the Aging* available in German.

The ICSG is presenting the Noam study to help provide a further understanding of the common goals and objectives contained in both European and American enactments affecting the elderly in institutions, as well as to help illustrate how policies and procedures to implement these goals and objectives may vary according to the social, economic, and political influences prevailing in each country. It is our hope that this report will be useful to public officials and professionals concerned with legal standards and social programs which safeguard and enhance the dignity and freedom of the Nation's elderly in need of institutional care.

The study, completed in 1973, was commissioned and supported by the Centre International de Gérontologie Sociale in Paris. It is being published in this country by the National Clearinghouse on Aging of the Administration on Aging, U.S. Department of Health, Education, and Welfare, Washington, D.C.

Wilma Donahue, Ph.D., Director, ICSG
Washington, D.C., June 1975

Preface

THE PURPOSE of this preface is to thank those who have assisted me in preparing this report. First and foremost my thanks are due to the Centre International de Gérontologie Sociale in Paris. I received active cooperation and support from this organization from the time when I first suggested to its President, Dr. J. A. Huet, the idea of publishing a comparative study of the licensing and control of institutional assistance to the elderly in Europe, until the report was ready for publication. For this I would like to express my gratitude to Dr. Huet and to his past and present colleagues. I owe special thanks to M. O. de Moussac, M. J. P. Dartiguelongue, and, last but not least, Mme. M. Delacroix.

In my search for the necessary documents and information, I was fortunate to obtain the help of many different persons—senior ministry officials, research workers in scientific institutes, and officials of welfare organizations—all of them active in the field of services for the aging. In many countries, including the United States, I was able to visit with them and, where this was not possible, to correspond with them. Many of these contacts were made possible with the assistance of the United Nations Division of Social Affairs in Geneva (European Social Development Program).

Everywhere I found a high degree of interest and support for this report. The number of all those who helped is too large for me to acknowledge individually and thank personally. To single out some for mention, while excluding others, would be to discriminate unfairly. Thus with great reluctance I shall refrain from listing any, but I shall express to all my deepest gratitude.

In the actual preparation of this report I was assisted by my wife Lotte on both an intellectual and a technical level. Although this was often no easy task, she knows, even without my saying it, how grateful I am for her invaluable and tireless support.

In discussing the legal situation of homes for the aged in the German Federal Republic, I relied extensively on draft legislation which was under active consideration during the time this manuscript was being prepared. Since it has been completed, new legislation on this subject has been passed, to become effective January 1, 1975. The new law contains some important modifications of the draft proposals cited in this report, and I have summarized them in an addendum to this volume. In addition, wherever changes noted in the addendum modify legislative proposals quoted in the test, footnotes have been added referring the reader to the relevant modifications in the addendum.

Finally, my thanks go to John S. Monks who translated the report from German. His competence, team spirit, and enthusiasm enabled him to complete the task in a very short time. My thanks are also extended to D. J. Curren of the ICSG staff who edited the translation for publication.

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ERNST NOAM

I. Introduction

IN RECENT YEARS there have been numerous publications on the subject of old people's homes, most of them discussing questions of administration, social psychology, and gerontology. The legal situation with regard to these homes has received less attention; as far as can be ascertained, no comparative study of the relevant legislation in various European countries exists.

The purpose of this report is to present the legal regulations of several European countries governing the licensing, supervision, and control of institutional assistance to the aged. Such a comparative report is thus, to a certain extent, breaking new ground.

The main objective of this examination is sociopolitical. A comparison of legislation and implementation regulations should make it possible to single out the most progressive rulings in specific areas and to encourage public officials and professionals working with the aging to try to introduce the best of existing solutions into their own country. This report is designed to offer some assistance in this task and thus, within the limits of its possibilities, to participate in the effort to make the living conditions of older people in institutions more responsive to their spiritual and physical needs.

All countries, with varying intensity, are today making provision for the introduction or expansion of licensing and supervision of institutional settings for the aged. These control measures presuppose the existence of minimal requirements which are the deciding factors for the organization, operation, and inspection of homes for the aged. Consequently, this report also compares these standard regulations insofar as appropriate legal rulings exist. They cover the whole range of problems related to the operation of homes and the living conditions of residents, and in this respect they have a significance broader than the purely legal perspective.

A survey of standard regulations, however, reveals that other questions are not covered by legislation. Among these are such important issues as the qualifications of the director or person in charge of a home and of its leading personnel as well as other specific concerns related to nursing, nutrition, social activities, and rehabilitation. In order to obtain the documentation necessary for forming a valid opinion on these issues, reference was made to the publications of the competent authorities or semi-official organizations. On the basis of this information it was possible to draw up guidelines for the minimal requirements which should govern homes. Some of the material was derived from non-European sources. Reference to publications in the United States proved to be particularly helpful because the characteristically pragmatic approach to social and administrative problems in that country and the high standard of its statistical methods are often very instructive for European conditions.

This report does not quote the entire range of relevant regulations in all of the European countries concerned. Instead, using the selective principle, it quotes only those laws and regulations which are of special interest to the subject under study. The fact that a proportionately high number of the regulations cited here are from the Federal Republic of Germany is explained by noting that in the Homes and Implementation Regulations of the various German states, a greater number of specific topics are dealt with than in most other countries.

This survey, which covers all forms of institutional assistance to the aged, i.e., service flats for the elderly, old people's homes, and geriatric nursing homes, places its main emphasis on the aspects and methods of social gerontology. As a result, questions related to old people's homes have been given preference over those related to service flats because the institutional aspects in the latter are generally much less evident than those prevailing in homes with individual accommodations and in geriatric nursing homes where medico-nursing requirements take precedence over social considerations.

Subjects of a financial nature such as cost, financing bodies, social security and welfare benefits, allowances, and subsidies for home construction and management have generally been excluded from this report. A special survey would be needed to discuss problems of such importance and extent.

As a final preliminary note, this survey was carried out and drawn up by one person. Excluding the time required to assemble the materials, there was only about one year in which to complete it. As a result, it does not purport to be a detailed survey of so diversified a field of study, but rather is an attempt to provide an overall and, as far as possible, comprehensive review of the situation. At this moment the problems discussed herein are being appraised everywhere. New legislation, directives, and publications are appearing. Nevertheless, in many countries the situation with regard to the aging in institutions still remains unsatisfactory. If this report can in any way contribute to improved supervision and control of institutional assistance to the elderly, it will have fulfilled its intent.

II. Homes for the Aged: Their Function and Significance Within the Concept of Assistance to Old People

THE TERMS "old" or "aged," in a statistical and legal sense, are generally applied to people who have passed their 65th year. There are some exceptions: in Norway the pensionable age is 70; in Iceland and Sweden, 67. The percentage of the population over age 65 in individual European countries varies considerably, ranging from 10% to 19%.[1]

The vast majority of old people, many more than is usually assumed, live alone or are able to take care of themselves with some help from family members and others. A report on conditions in the Rhineland-Pfalz in the German Federal Republic has shown that 70% to 85% of them have no need for the available organized institutional facilities, either because they are sufficiently integrated into a normal social context or because, in most cases, they are unwilling to claim such assistance.[2] As a rule, only 15% to 30% of all old people make any sort of claim to the benefits of assistance programs for the aging, whether they are offered on a state, local, or voluntary welfare level.

In the past, social assistance to the aged and needy was mainly institutional in nature. The old were placed in large homes and shared sleeping quarters with others judged to be socially undesirable, chronically ill, or mentally deranged. Much has already been written about the Poor Law Homes in England and certain "Hospices" in France.[3] Although today there is a trend to replace these primitive types of accommodation with more modern forms of care, Poor Law Homes and Hospices still exist in surprisingly large numbers.[4]

Even though these relics of an inglorious past have not yet been completely removed, both the theory and the practice of assistance to old people have undergone basic change in the past few decades. Fundamental to this change are two factors which are increasingly being recognized by society as significant in providing care for the aged: (1) the independence and responsibility of the old must be respected and maintained as long as possible; and (2) the old should be placed in an institution only when all other possibilities have been exhausted or when they request entry.

As a result, social legislation in European countries now provides for the development of a large number of different types of non-institutional and semi-institutional assistance for the aged, allowing them to maintain a maximum of independence in life style as long as this is possible. The construction of new housing units designed for the elderly and the adaptation of existing accommodations to meet their needs are major parts of this development, but equally important is the creation of social centers and clubs and a comprehensive system of non- and semi-institutional services listed in the chart on the following page.[5] Statistics now available do not indicate the extent to which these types of services are already operative in various European countries or their exact costs, particularly in relation to the costs of institutional assistance to the aged.

Despite the increasing importance of types of care outside an institutional setting, institutional aid as provided in old people's homes, service flats for the elderly, and geriatric nursing homes will continue to exist and to fulfill a significant social role.

Service flats are the closest in approach to non-institutional services. They enable an elderly person to lead an independent life in a suitably adapted apartment. At the same time special arrangements, which vary according to individual circumstances, make available nursing care and communal day rooms. Thus personal liberty is respected and a complementary atmosphere of community and care is created. On the other hand, nursing homes fulfill the ever-increasing need to care for the chronically ill and infirm who cannot be treated and tended in hospitals or in old people's homes.

The homes for the elderly generally accept only those aged who, aside from minor complaints, are in good health but who no longer wish or are able to look after

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[1] *Numbered footnotes begin in the Footnote Section, page 88.*

SERVICES FOR OLDER PEOPLE

	NON-INSTITUTIONAL	SEMI-INSTITUTIONAL
COUNSELING	House-visits for general questions, housekeeping, furniture, equipment	Centers for general counseling, legal and food assistance
HEALTH AND SOCIAL SERVICES	Domestic medical care, home help Meals on wheels Mobile home services for: chiropody bath help occupational therapy physiotherapy therapeutical gymnastics general rehabilitation	Agencies for local medical care and home services Meal service centers Permanent services for: chiropody cleansing baths, bath help occupational therapy physiotherapy therapeutical gymnastics gymnastics, sports courses medical baths, massages Health counseling, including preventive and post-treatment checkups Day clinics with communal centers for prophylactic, therapeutic, and rehabilitative activities Convalescence care, facilities Convalescence care at home including homemaker aid Assistance facilities for the mentally disturbed
SERVICE AGENCIES	House-visits to examine need for non- or semi-institutional aid	Setting up of agencies to provide nursing, household help, and placement services, and leisure activities and work for the aged
ASSISTANCE IN MAINTAINING CONTACT ENTERTAINMENT	Visiting services Radio, TV facilities Low cost transportation Transportation to doctors, clubs, churches	Facilities for social, communal events, entertainments, cultural and leisure time activities Educational seminars on aging Day centers, clubs, workshops Senior citizen associations Field trips, excursions
PERSONAL AND TECHNICAL ASSISTANCE	Reading Services Help with letter writing, completion of applications, etc. Spiritual care, pastoral visits Traveling library services Emergency call services Telephone Reassurance Help with shopping, laundry, and household repairs	Setting up of centers for: neighborhood assistance emergency call centers courses in household maintenance hire of invalid beds, lifters, wheelchairs, etc.

themselves. These settings relieve the elderly of household burdens and protect them from loneliness and isolation. When they are ill, elderly residents receive a certain amount of care. Their intellectual and spiritual well-being is enhanced through various occupations and social and cultural events. In many cases an infirmary is incorporated into old people's homes, essentially for the treatment of acute illnesses, but also to enable residents to remain in the home even after they succumb to chronic illnesses or infirmity as they grow older.

The demand for places in these homes is generally high and new ones are constantly under construction. However, it is clear that, as a general rule, the need for places in service flats and nursing homes is noticeably greater than for places in the traditional old people's homes, and consequently, more of the former will be constructed in years to come. This, plus the continued development of non-institutional services for the aged, will lengthen the period of their self-reliance and result in a later entry into homes for many, causing a higher average age among residents there.

The number of residents in institutions for old people is low in relation to that of the older population in general. In most countries it is only 2% to 4%; Holland, with 8.5%, is an exception, its high percentage caused by the limited number of places available in homes and the unwillingness of many elderly to enter such institutions.[6] Despite these proportionately low figures it can be assumed, in the absence of overall statistics, that the total number of old people utilizing these various types of institutional assistance in Europe is well over one million and that the number of homes is considerably more than 10,000. These estimates are based on the following table (numbers in round figures):

COUNTRY	INSTITUTIONS	PLACES
German Federal Republic	5,000	290,000
German Democratic Republic (East Germany)		100,000
Denmark	1,200	32,500
England and Wales		128,000
France	4,000	355,000
The Netherlands	2,000	125,000
Sweden	1,300	52,000 (plus 40,000 nursing places)
Switzerland	900	40,000 (plus 7,000 nursing places)

III. Typology of Homes for the Aged

THE ROLE AND FUNCTION of institutions for the aged are generally identical with the motives of the elderly person desiring entry to them. There have been several investigations of these various motives and of the priorities among them. Despite some variations these studies generally agree that the desire to enter an institution is usually prompted by its economic advantages, unsatisfactory living conditions outside, prospects for a better way of life and more social contacts, the need for help and nursing care in cases of acute or long-term illness or debility, a desire to escape housekeeping burdens, and physical, psychic, and social rehabilitation.[7]

Institutions for the aged are intended to help them find the best possible solution to these needs which may occur singly or often cumulatively. The role of the state is to assist the institutions to carry out this task and to intervene if they fail to do so.

This chapter attempts to categorize various institutions for the aged according to their typical characteristics. As far as I know, no such formal typology exists as yet, but I consider it indispensable for the conduct of any social analysis. Similarly, the question of what constitutes the model of a good home can be answered only by having a clearly defined knowledge of the variety of present types of institutional settings for the aged. I am proposing that these institutions may be placed into the following categories:

1. Purpose or Function

Institutions classified by function include service flats for the elderly, old people's homes, geriatric nursing homes, and geriatric hospitals.

They may also be grouped into combined systems, such as old people's homes with infirmary; service flats with nursing homes; old people's homes with nursing homes; service flats, old people's home, and nursing home; old people's home and day home; old people's home and service center or senior club.

It appears that these combined systems will flourish in the future. Whereas some countries, e.g., the German Federal Republic, prefer a system combining service flats, old people's homes, and nursing homes (*Mehrstufenheim*), it is gradually coming to be recognized, particularly in Scandinavian countries, that it is more practical to construct service flats equipped with nursing personnel in connection with nursing homes. As a rule, centers for the elderly are affiliated with these institutions.

2. Ownership or Operating Authority

In this category institutions are viewed as public, private, voluntary welfare, or cooperative, depending on how they are owned or under what auspices they are operated.

The home authority or owner, i.e., the proprietors or organizations responsible for the institution, varies among countries as evidenced by the following examples:

HOME AUTHORITY OR OWNERSHIP *(percentage of the total number of homes)*

COUNTRY	HOMES			PLACES IN HOMES		
	Public	Voluntary	Private	Public	Voluntary	Private
Denmark	[67]		33	–	–	–
German Federal Republic	20	61	19	26	66.5	7.5
German Democratic Republic	–	–	–	80	20	–
England	67	23	10.5	65	21	14
France	–	–	–	[74]		20
Holland	5	63	32	6	84	10

3. Number of Places Available in Individual Homes

Institutions may be rated as large (with more than 100 places), medium (from 30 to 100 places), and small (under 30 places).

As a rule public and voluntary welfare homes are larger than private ones. Service flats and geriatric hospitals often have more accommodations than old people's homes. Agreement has yet to be reached on the optimum size of institutions for the aged.

4. Internal Composition

In this category homes may be classified according to several factors: those which are aligned with a religious denomination or non-aligned; those with a socially and culturally homogeneous resident population or those of mixed composition; those whose residents are predominately self-supporting or beneficiaries of social welfare; those with a medium, relatively high, or low average age group; and those whose average age group requires a relatively large or small amount of care.

On these factors, to a large extent, hinge the possibilities for developing an adequate social, religious, and cultural life style in the home as well as the forms such activities will take.

5. Structure of the Facility

In this category there is a wide spectrum, ranging from the English Poor Law institutions built in the last century to the numerous modern buildings constructed in every European country since the end of World War II. A further subdivision in this classification could be made with respect to the physical plant, in particular, its date and type of construction.

6. Location

Homes may divided between those in towns or cities and those in rural areas. Regarding those in urban settings, it is important to note if they are located in or near the urban center or in surrounding suburbs and what forms of public transportation are available.

Investigations have shown that old people generally prefer to live in or near the urban center, even though they then have less garden space at their disposal. A central location provides them with more opportunities to participate in outside activities and to exchange visits among friends.

7. Accessibility to Other Old People Living Nearby

Institutions for the aged may also be classified according to the degree to which they hold themselves responsible for placing their social and health facilities at the disposal of other elderly persons living nearby and serving them as a senior center.

Scandinavian countries are advanced in developing institutions which are accessible to older persons outside. The elderly from the surrounding community can pass the entire day in the home or in affiliated clubs, and they can utilize cultural activities, occupational therapy, and physiotherapy at these facilities. A dining room or restaurant is also at their disposal. This opening out onto the outside world also provides residents with new personal contacts and an interest in outside affairs.

8. Home Management

Institutions may be categorized according to the management principles by which they are administered, whether they are authoritarian or democratic, whether they encourage residents to express their opinions on administrative matters and to collaborate actively in home affairs, and whether they provide an authority to examine resident complaints objectively.

9. Facilities for Physiotherapy and Occupational Therapy

Homes may be classified according to the type and extent of facilities available for physical rehabilitation and occupational therapy. In recent years much progress has been made in developing and expanding these facilities in homes for the aged, but many institutions still remain backward in this respect.

IV. Reasons for State Control of Homes

RECENTLY IN MANY European countries old people's institutions have become a favorite target for criticism in literature and the mass media. This criticism has included condemnation of flagrant abuses uncovered from time to time and a critical review of such institutions in general. The two are fundamentally related. Without the condemnation of abuses, institutions for the aged and the lives of their residents would not awaken the necessary public interest which in itself is a prerequisite for state intervention.

Among the criticisms leveled by the press against home authorities, owners, and directors, these complaints stand out: outbreaks of fire, often causing death because of insufficient structural safeguards and security measures; food poisoning; financial dishonesty, including embezzlement, blackmail, inflated prices, and falsified accounts; insensitive attitudes toward residents, including physical maltreatment and punitive solitary confinement; and cases of deaths in mysterious circumstances, such as due to an overdose of sleeping tablets.

The second type of criticism about the way in which these institutions function is as important as the condemnation of abuses. It is often maintained that the conditions in many institutions, and not only in those motivated by profit, are an affront to human dignity and are in no way adapted to the purpose of ensuring a calm, peaceful old age to persons nearing the end of what has been in most cases a hard life. A torrent of complaints, so familiar that they need not be listed here, has been leveled against the life styles practiced in homes, the qualifications of personnel, and the type and quality of care that old people receive. Without doubt this criticism is in many instances unjust, because it tends to include many homes whose authorities, owners, directors, and staff honestly endeavor to carry out their duties conscientiously and with affection toward the residents entrusted to their care.

However, in the issues at stake here, it is less a question of personal integrity and competence than it is one of whether the standards of institutional assistance to the elderly in general are in accord with current findings in medicine, social psychology, and gerontology. For only with such concurrence can these institutions properly fulfill their role.

It is my opinion that honest and objective examination must lead to the conclusion that these standards in many cases are not sufficient and that criticism of old people's institutions is frequently justified.

Thus it has become necessary for the state to control old people's institutions by licensing and standards supervision to prevent and punish abuses and to ensure adequate care for its aged citizens. This obligation is rooted in the Christian, humanistic, and socialist concepts of human dignity. But it must be acknowledged that a major reason for increasing state interest in the welfare of the aged is political in nature, in that the votes of the elderly can often decide elections.

Another factor which accounts for existing state supervision of homes, especially in socialist countries, is the inclusion of old people's assistance programs and their provisions for institutional care in overall national planning. For example, in Holland the planning element plays an important role in legislation affecting the aged. The purpose of this planning is to coordinate non-institutional and institutional assistance in such a way that extra-institutional aid is developed to the fullest, and only those elderly are accepted into institutions for whom no other possibilities of outside living exist.

V. Society's Influence on Legislation: The Cases of Holland, the German Federal Republic, and Czechoslovakia

THE STATE UTILIZES direct and indirect means of supervising institutions for the aged.

The direct means lie in legislation and associated administrative measures, especially those relating to licensing and inspection. The laws are mostly concerned with regulations governing the manner in which they are to be implemented. They often lay down special guidelines and standards specifications.

The indirect means of control are connected with subsidies from public funds which may be granted for the financing of construction or extension of institutions or their operating costs. These subsidies are usually tied to certain conditions or guidelines. The placement of beneficiaries of public aid in these institutions is also subject to specified conditions and inspections. Moreover, homes are under the supervision of municipalities and their auditors. Private welfare organizations, in many cases, have set up their own system of checks for their homes and have issued guidelines governing their operating procedures.

Three groups of legislation can be discerned according to their intended range of application:

(1) That governing general conditions in public, private, or voluntary welfare institutions (e.g., Czechoslovakia and Italy).

(2) That concerned with conditions in certain, precisely defined categories of homes, i.e., other institutions in addition to old people's homes (e.g., England, France, and Israel).

(3) That drawn up especially for old people's homes (e.g., Holland, Norway, Belgium, and the German Federal Republic).

In general, it can be ascertained that legislation concerned exclusively with old people's institutions is a recent phenomenon. This reflects the increasing importance given to problems faced by the elderly and the development of basic scientific research and administrative practice in relating to these problems. It is also frequently the result of pressure from public opinion and widespread uneasiness over conditions prevailing in old people's homes.

Relevant legislation was promulgated in Belgium in 1966, in Holland in 1972, in France in 1971, in Norway and Sweden in 1970, and in Denmark in 1972.*

Older legislation does exist in some instances. In Italy it dates from as early as 1890 and in England from 1948 as part of the National Assistance Act.

A more thorough investigation of these different groups of legislation, as well as their incorporated regulations, guidelines, and standards, reveals that they cannot be viewed in isolation. A certain knowledge of the sociological and administrative problems of the countries in which they were formulated is required if one is to understand more than their purely technical aspects. Differences in these social conditions can result in considerable diversity in the conceptualization and implementation of legislation for the aged, as is illustrated in examples provided by Holland, the German Federal Republic, and Czechoslovakia.

1. Holland

Holland, a constitutional monarchy, is divided administratively into 11 provinces. The federal concept in this country is relatively strong, and the provinces have their own Parliaments and promulgate their own laws. Consequently, it is necessary to establish uniform regulations and coordinate the decisions and measures of the various provinces.

The number of people age 65 and over is 1,339,749, or 10.4% of the total population. Not less than 125,000 of them, or 8.5%, live in approximately 2,000 old people's homes. The reason for an unusually high proportion of old people in homes for the aged in comparison with other countries merits special notice. The cause appears to lie in the fact that, despite relatively high old age pensions, life in the homes is considerably less expensive than outside, independent living. This indicates that standards in homes are rather high and that it is not too difficult to obtain entry. Even

In the German Federal Republic relevant legislation was approved in 1974, to be effective January 1, 1975.

today there is a high demand for new places in homes. In these circumstances the Dutch Government, in particular the Ministry of Social Affairs, has attempted to retard development of these institutions to a greater extent than other countries, especially in view of the current consensus that it is in the interests of older people themselves to prolong independent living for as long as possible.[8]

The Dutch legislation of 1972, therefore, emphasizes two principles:

(1) Further development of assistance programs for the aging and the construction of new homes must be coordinated within the framework of a uniform planning program, with the necessity for constructing new homes ascertained objectively and precisely beforehand.

(2) Every request for entry into a home must be examined on an individual basis. Local admissions committees are to be set up to determine if a better solution cannot be found as an alternative to entry into a home which must be considered as a last resort.

2. The German Federal Republic

In the German Federal Republic in 1970 the number of old people was 7,355,000 out of a total population of 61,930,800. Of this number 289,000, or 3.8%, lived in old people's institutions: 182,000 in old people's homes, 41,000 in service flats, and 66,000 in geriatric nursing homes.[9]

In West Germany, as in Holland, the federal principle is firmly established, and the influence of the states is strong in social legislation. But there is also considerable opposition to state legislation which would make the establishment of homes dependent on licensing and which would place the homes under supervision, including inspections. In the case of privately-operated homes this opposition is generally of a political and economic nature. In the case of local authority homes and those run by voluntary welfare organizations, rejection of such controlling legislation is based on the fear that it will encroach upon their traditional autonomy.

Until 1968 private homes were regarded exclusively as business operations which, like travel agencies or estate agents, were subject only to the requirements laid down in the Trades Regulations, without any particular consideration of their social character. Thus there was no licensing obligation or state supervision. Only when public opinion considered this arrangement no longer permissible did the Federal Parliament (*Bundestag*) amend the Trades Regulations. Individual state governments were empowered to specify the manner in which privately-run old people's homes, service flats, and nursing homes were to conduct their bookkeeping, what information they must provide to the relevant supervisory authorities, and what supervision and inspection measures they must accept. The authorities were permitted to formulate minimal requirements as to the number, employment, and attitudes of personnel as well as those covering health and hygiene in accommodations. Supervision may even include an examination as to whether the general conditions of entrance contracts agreed to by residents are acceptable. (Cite the amendment of May 24, 1968, par. 30, art. 10 of the *Gewerbeordnung*.)

As a result of these statutory measures all regional governments in 1968 and 1969 issued almost identically worded regulations for the supervision of privately-owned old people's institutions. However, these regulations adhered strictly to the text of the Trades Regulations and contained no provision for the licensing of private homes nor for the licensing and inspection of public and voluntary welfare homes.

A large proportion of the public found this solution unsatisfactory. When detailed reports of abuses in old people's homes appeared in the West German press, e.g., in Mittelheim in the Rheingau and in Idstein in the Taunus, uneasiness about the insufficient protection of institutional elderly residents became so intense that the German Federal Government and some state governments felt obliged to act. The head of the government of Hessen presented the draft of legislation to the Federal Council (*Bundesrat*) on September 17, 1971, which provided for the insertion of a clause into the Trades Regulations specifying that the operation of private old people's homes or service flats would require a special permit whose issuance would be subject to conditions defined in the draft. On March 6, 1972, the West Berlin Senate also presented the *Bundesrat* with the draft of legislation substantially more far-reaching than the Hessian proposals. This bill not only proposed supplementary amendments to the Trades Regulations but also, as its title "Legislation Governing Old People's Institutions" suggests, a comprehensive ruling on state concessions and supervision in regard to institutions for the aged and related minimal requirements. This draft also provided for the licensing of privately-owned institutions, and in contrast to the ruling valid up until now, specified that state supervision in the future should encompass all categories of homes—private, local authority, and voluntary welfare.

The Berlin draft legislation did contain certain reservations in that state, local, communal, and religious institutions as well as voluntary welfare organizations should be exempt from obtaining a permit (viz., p. 5(1) i.V. and p. 10, par. 1 of the Federal Social Assistance Act).

It is a moot point if a ruling allowing for exceptions is justifiable. It involves discrimination against privately-

run homes and is based on the assumption that the opening of a home by a public body or a voluntary welfare organization automatically ensures that the requirements have been met to provide facilities and personnel necessary for the well-being of residents. This assumption was not the main subject of the public debate. Rather, that debate focused on the question of whether institutions runs by local authorities and voluntary welfare organizations should be subjected to state supervision in the future. Both groups manifested considerable opposition to these legislative proposals.

To understand their adverse reaction one must have a clear idea of the institutional forms of assistance to the elderly in Federal Germany. Of approximately 5,000 such institutions, 20% are public, 61% voluntary welfare, and 19% private. As far as the distribution of places available is concerned, the public and voluntary welfare homes have a larger number of beds at their disposal. The dominant position held by welfare organizations, and to a certain extent by local administrations, as well as their enormous accomplishments in the field of social service which have contributed to this position, explain why they are reluctant to yield their independence.

Their strong position in heavily influencing legislation is further reinforced by the fact that the relationship between the state and independent welfare organizations is defined in the Federal Social Assistance Act (par. lb) as one of free corporation.

When, in individual cases, assistance is guaranteed by an independent welfare organization, public assistance authorities should refrain from taking any measures. In a judgment of the Federal Constitutional Court on July 18, 1967, it was stated that although social assistance is the affair of the state, the state is not in a position to cope with the problem, either from a financial or organizational standpoint. Consequently, mutual cooperation between these two separate entities—the state and independent welfare organizations—is indispensable.

As is evidenced by the previous examination of the draft legislation and the Court findings, voluntary welfare organizations in Federal Germany enjoy an almost official status to an extent unequalled in any other country. This position is an important psychological lever in their opposition to state control.

With regard to the local authority organizations, they too considered the proposed legislation as interference with their constitutionally guaranteed right to self-government which has developed over the centuries.

On May 24, 1972 the Federal Senate conducted a special hearing to enable the principal welfare organizations to argue their case. Nevertheless, on July 7, it was decided to submit to the Federal House of Representatives a bill based largely on the proposals of the Berlin Senate, modified to state that residents of a home have a legal right to participate in its internal administration, especially in matters concerning accommodations, food, and leisure activities (art. 4). The new draft also proposed that the competent authorities be empowered, upon receipt of due application, to relinquish supervision of home authorities under their control to regional welfare organizations on a revocable basis, subject to the agreement of the home authority in question (art. 9, par. 2).

An analysis of this special hearing reveals that the discussion focused on the interests of the welfare organizations to such an extent that the subject of which solution would best serve the interests of the elderly was hardly debated. Experience in the supervision of homes, as is demonstrated by the legislation concerning youth welfare, indicates that the delegation of this responsibility to central organizations has not always been effective. On the other hand, practice has shown, e.g., in Hamburg, that shared supervision by state and central organizations has proved more effective than the kind of delegation proposed in the bill.[10]

Due to general elections that year a vote on the proposed legislation affecting old people's institutions was deferred to the present House of Representatives (7th legislative period), with a decision expected in 1973 or 1974.*

3. Czechoslovakia

Czechoslovakia has been selected as the third and final example to illustrate the legal situation of institutions for the aged in a country belonging to the Eastern European socialist bloc. Institutional care of the elderly here lies exclusively with the state. Religious groups and other organizations have no voice in the matter. The development of the institutional social welfare program, to which old people's institutions belong, forms a part of the state economic planning program. The Ministry of Labor and Social Affairs is the controlling authority for

**On June 11, 1974 the Federal German House of Representatives unanimously approved legislation governing old people's homes, service flats for the elderly, and nursing homes for adults, effective January 1, 1975. The new law contains important modifications of earlier draft proposals considered by both Houses of the West German Parliament; the most significant of these are summarized in an addendum to this report (see p. 91). In addition, references in this text to major legislative proposals, under consideration when this manuscript was completed but since modified by the new law, are marked with an asterisk (*) and a footnote directing the reader to the appropriate page of the addendum where the relevant modifications are described.*

institutional welfare and is responsible for ensuring that the program is in accord with the needs and resources of society and for training personnel required to conduct it.

Certain areas of responsibility are delegated to national, regional, and district committees. The organs of these committees are the Plenary Assembly, the General Council, and the Commission for Social Security. They function in accord with specific regulations, part of which are the guiding principles for institutional social welfare.

The Plenary Assembly draws up politico-economic guidelines for planning and budgeting, approves budget and cost estimates, and provides the necessary funds. It discusses and approves the management as well as the economic analyses presented to it. It also has a decisive say on the construction, division, merger, and closing of institutions, although the decision to close one must be made in agreement with the local Workers Committee Council.

The General Council is more concerned with the fundamental questions of institutional social welfare, the fulfillment of planning, and the budget. When new homes are to be constructed, it prepares the organizational arrangements as directed by the Plenary Assembly. The Council also determines the operating capital for the institution and appoints the director and his assistant.

The Commission for Social Security—in its different areas of competence: social affairs, budget, planning, finance, medical and general health welfare—is responsible for the actual operation of institutions in areas not directly under the authority of the director of the home. Moreover, the Commission handles all other questions which do not fall within the competence of the Plenary Assembly and the General Council. In accord with party and governmental decisions it supervises homes and requires directors to remedy any shortcomings and to make concrete proposals for the achievement of their purposes and objectives and for the mobilization of their reserves. Above all, it exercises control over the general activities of the homes but must ensure that all important measures are discussed with the principal collaborators.

The following responsibilities fall within the Commission's competence: an institution's planning and budgetary requirements, its management, services, and investments planning; legal matters concerning labor; food and accommodations for residents and personnel; provision of clothing, linen, footwear, and health facilities; fire security and civil air defense; work for residents; supervision of sickness and pension insurance and of payment of contributions towards the cost of institutional care; protection of socialist property; and the subsidization of cultural funds from the institution's production income sources or subsidiary productive activities.

The regional committees are placed over the district committees and are especially concerned with supra-local or supra-district institutions.

In addition to these forms of supervision the Ministry of Labor and Social Affairs has a direct right to conduct inspections and the People's Committees of Inspection (*Volkskontrolle*) undertake planned inspections.

All supervisory measures are based on general or specific legal regulations. Separate legislation for social welfare was being drafted when this report was prepared and should result in modifications of the regulations governing institutional welfare.[11]

4. Conclusion

These three examples from three different European countries—Holland, the German Federal Republic, and Czechoslovakia—show to what extent individual rulings can differ in the light of different political, ideological, and socio-economic structures, although each in its own way is directed toward the same goal.

Before analyzing in detail the norms contained in legislation for the aged with regard to the licensing, supervision, and inspection of homes, it is necessary to consider the purposes of such prescriptive legislation, the legal status of homes described in it, and the scope of its application to forms of institutional assistance for the elderly.

VI. The Purposes of Legislation

ALMOST NO LEGISLATION mentions its basic goals or purposes, with the exception of the proposed bill in the German Federal Republic which in par. 2 states that:

(1) The aim of this legislation is to ensure that in the institutions mentioned in par. 1, i.e., old people's homes, service flats, geriatric nursing homes, and similar institutions, the physical, intellectual, and spiritual well-being of residents is guaranteed and that a reasonable proportion between costs and services is maintained.*

(2) The fixing and accomplishment of a home's objectives remains the affair of the home authority or owner.

The rationale for this bill emphasizes that par. 2 is not merely one point in a program, but rather that it constitutes the basis of the state's authority and intervention rights which are further specified in the draft. At the same time the definition of the purposes of the legislation also limits the scope of its authority.

The rationale also stresses that the supervision provided for in the bill is to supersede the present form of control which only governs commercial enterprises.

The particular guarantees concerning the physical, intellectual, and spiritual well-being of home residents are mentioned only partially in brief legal phraseology, and then only in the rationale to the bill and not in the draft legislation itself. The definition of these concepts is in a process of continuous evolution, but their current interpretation is based on these factors:

(1) The formulation in law and standard regulations.

(2) The development of social policies and assistance to old people in the individual states together with the measures taken by voluntary welfare organizations and the reaction of public opinion.

(3) The current level of scientific research, particularly in the fields of geriatrics and social gerontology, e.g., the increase in the knowledge and understanding of the needs of the elderly on a sociological and socio-psychological level. (However, in many states the degree of coordination between scientific knowledge and administrative practice is still insufficient.)

If one were to formulate the current basic principles of social policy and assistance to the aged with regard to the promotion of their physical, intellectual, and spiritual well-being in institutional settings, one could say: "As few homes as possible, but as many as are necessary." Put another way: an old person should live in a home only if he or she is no longer in a position to lead an individual, independent existence, even with all the ever-developing non-institutional services at his or her disposal. Old people's institutions should, as far as possible, rid themselves of a totally institutional character.[12] They should attempt to produce a synthesis of the advantages of community life and the maintenance of an autonomous life. They should not be a last resort for the elderly but a genuine home in the truest sense of the word.

The purposes of legislation, aside from its direct administrative consequences, can result in a series of indirect effects no less important than the direct ones. Thus, above and beyond a given particular situation, legislation can contribute substantially to a general raising of standards in institutions for the aged. In pre-legislative discussions, for example, a program of cooperation between home authorities and owners and governmental bodies can be established on the basis of professional consultations. The increasing standardization resulting from more detailed legislation will also lead to greater coordination among homes, in itself very useful and desirable, enhancing conditions for improvements in planning, information, and exchanges of experience. It should also be noted that so much importance is justifiably attributed to the subject of pricing that this issue is expressly presented on an equal footing with the concern for the residents' well-being in defining the main purposes of the legislation.

The continuing independence of home authorities or owners in determining objectives for the institutions, as stated in the draft legislation and emphasized in its rationale, confirms that voluntary welfare organizations and their members play a special role in Federal Germany's social welfare field.

In comparing legislation in different European countries and analyzing to which categories and types of homes they refer, there are important differences to note. It is therefore necessary to clarify the terminology

**See Addendum, No. 2, p. 91.*

employed, for practical rather than for theoretical or academic motives. The practical significance of such definitions can be seen, for example, in helping to provide answers to such questions as: to what extent should legislation cover such situations where individual families lodge, feed, and care for the elderly or those in which hotels or guest houses cater, in part or totally, to old people and even advertise for them? should this type of commercial activity entitle them to tax relief? in what type of home should aged beneficiaries of public aid be placed? and what are the characteristics which should entitle a home to subsidies for construction, alterations, or operating costs?

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VII. Legal Definition and Scope of Application

EXAMPLES OF LEGISLATION from Belgium, the German Federal Republic, England, France, Holland, and Czechoslovakia are presented in this chapter to demonstrate the similarities and differences in various legal definitions of the concept "old people's homes" and the limits of their application. These definitions are not exhaustive but are generally derived from the objectives of current practice. Some, as in Holland, interpret the term broadly while others, as in England, define it more narrowly.

1. Legal Definitions of Homes for the Aged

(a) Belgium

Article 1 of the Legislation Governing Rest Homes for the Aged (July 12, 1966, Ministry of Public Health and the Family) states: "The present legislation applies to establishments run on a public or private basis which, under the designation or title of 'rest homes, homes for the retired, or homes for the aged', offer accommodations and either partial or complete household and family facilities and care to persons of at least 60 years of age who are in permanent residence." The King may complete Article 1 by adding any other designation he deems appropriate to the list after consultation with the commission instituted by Article 4 and assigned the responsibility of studying problems related to the application of the present legislation.

(b) The German Federal Republic

The rationale to par. 1 in the draft legislation governing homes for the aged (July 7, 1972) and discussed in chapter V reads: "An Old People's Home is an institution which provides for and takes complete care of old people no longer in a position to conduct their own household, but who are not in need of nursing at the time of entry. Service flat homes, on the other hand, consist of a group of independent flats the layout, equipment, and fittings of which take into account the particular needs of an old person, thus enabling him or her to lead an independent existence for as long as possible. (They) also possess dining and general care facilities. Nursing Homes (e.g., geriatric nursing homes and geriatric hospitals) are institutions which in every respect provide and care for the chronically ill and those in need of nursing. Construction, equipment, and staffing are so oriented as to facilitate the exercising and preservation with medical assistance of the remaining faculties of the sick, and to improve their general condition through therapeutic care."*

(c) England

"... the expression 'old people's home' means any establishment whose sole or main object is, or is held to be, the provision of accommodations, whether for reward or not, for the aged" (Article 37 (9) of the 1948 National Assistance Act, Part IV—General and Supplementary Registration etc., of Homes for Disabled Persons and the Aged and Charities for Disabled Persons).

(d) France

The French legislative definition contains these elements (*Ministère de la Santé Publique et de la Sécurité Sociale: Loi de 24 Décembre 1971, Art. 203,* in conjunction with the *Décret de 23 Octobre 1972 portant l'application de la loi, 24/12/71, Art. 12):*

An old people's home is an institution (*établissement*) providing collective and permanent accommodations for the aged free of charge or upon payment. On principle the legislation regulates admission into private institutions which may be run by physical or legal persons. Part of the legal regulations of Art. 203, however, refers to *Collectivités Publiques*, Art. 214.

(e) Holland

Draft legislation accepted in the House of Deputies on May 2, 1972 states (in Par. 1: Definitions of concepts: Art. 1): "Old person—a person of 65 years of age or more. Old people's home—an institution offering permanent accommodations with full or half board to at least five old persons."

(f) Czechoslovakia

Aged pensioners' homes are intended for old, chronically ill members of both sexes, whose condition does

*See Addendum, No. 1, p. 91.

not necessitate entry into a medical institution for bedridden patients. They are also intended for others who because of their age are unable to take care of themselves and whose families cannot provide them with the required care (source: letter from Dr. Ladislav Horsky re CSR welfare institutions. See also[11]).

2. Similarities and Differences

These six definitions contain three common conceptual elements:

–Old people's homes are institutions.

–They serve to provide accommodations.

–They are intended for the elderly.

There are, however, differences. The Dutch legislation requires a minimal number of residents. That for Belgium requires that an old people's home be expressly so designated. With the exception of England and France, the legislation cited stipulates that board is to be provided, while in Belgium and Federal Germany it includes provision for board and care. The concept of "care" in the German and Czech legislation is applied to the elderly who are no longer able to conduct their own household or look after themselves. The Czech definition also establishes, as one prerequisite for entry, the inability of the family to provide the necessary care, thus making entry into a home a solution when no other course remains. The German draft rationale also emphasizes that residents of such homes do not include those in need of nursing care, at least at the time of entry. The question remains as to how to categorize the sick wards in old people's homes, particularly when they serve permanent nursing cases.

Further differences can be noted by studying the scope of application indicated by these definitions.

(a) Are the stipulations merely part of a more generalized piece of legislation or do they refer exclusively to institutions for the elderly?

In *France* they are part of those governing the establishment of collective accommodations, including homes for the aged, invalids, poor people not in need of medical care, and persons requiring social rehabilitation.

The ruling in *Czechoslovakia* is part of legislation for social welfare institutions.

In *England* the law covers both homes for invalids and homes for the aged.

Although the legislation in Holland, Belgium, and West Germany refers specifically to institutions for the aged, there are differences among them.

In *Holland* the term "old people's home" is very broad and not too specific. In *Belgium* the definition is precise and requires homes for the aged to be so designated: *maison de retraite, maison de repos, homes pour personnes âgées*. The *German* draft legislation lists the different types of institutions: service flats for the elderly, old people's homes, nursing homes.*

(b) Which categories of homes—public, private, or voluntary welfare—are covered by legislation?

In some countries (*West Germany, England, France*) the law provides for supervision of all categories, but dispenses public homes from licensing requirements. The German legislative draft also provides for dispensing voluntary welfare organization homes from registration (par. 5,1).

In *Holland* and *Belgium* the law requires both licensing and state supervision for all types of homes.

In some cases, e.g., *Denmark*, the private home authorities or owners are placed on the same footing as public bodies on the basis of special agreements.

(c) Does the legislation provide that other types of homes may be added to those already designated?

In the *Federal German* draft this possibility is foreseen by the introduction of the term "similar institutions." In this case legal stipulations in the various states would determine which institutions could be included under this proviso (Par. 12).†

In *Holland* the Ministry may declare that a particular institution or group of institutions should not be regarded as old people's homes, or equally, that they may be considered as such, in whole or in part, for the purposes of applying certain legal requirements (Par. 1, 2, 2a).

As we have already noted, in *Belgium* the King may, after consultation with the State Commission for Old People's Homes, extend the definition of institutions designated as homes in the legislation.

In *England*, however, the 1948 National Assistance Act allows for the express dispensation of certain categories of homes for the aged from its application. These include hospitals, nursing homes, and homes run by the Government, local authorities, or bodies constituted by Parliament or public charter. After consultation with the Charity Commissioner, the Health Ministry also has the right to dispense already existing homes from the application of the Act.

From these examples, although limited in number and in areas of comparison and contrast, it can be seen how many differences exist in legal conception and interpretation of what constitutes a home for the elderly. However, one common factor is undeniable: control over such institutions is considered necessary in all countries cited (1) in a preventive form, i.e., licensing after examination and approval, and (2) in the further supervision of their operation.

**See Addendum, No. 1, p. 91.*
†Ibid., No. 13, p. 93.

VIII. Methods of Public Control: Licensing, Supervision, Inspection

LICENSING AND SUPERVISION are the core of all legislation. They are the primary means by which the state avoids abuses and guarantees appropriate standards in institutions for the elderly in order to ensure that residents receive due care and attention and are helped to conduct their lives in freedom and dignity and in a style of their own choice.

These forms of control are closely related in that they share the same fundamental principles as well as many of the same legal stipulations. The licensing regulations facilitate the routine form of supervision of homes in that the license requires renewal at regular intervals and its renewal is conditioned upon prior inspection. In most cases the same public authority is responsible for implementing both forms of control.

Before discussing in detail both licensing and supervision it would be helpful to note the limits of their influence and effectiveness. Today a distinction must be made between difficulties in applying the law which arise from general causes, mainly social and economic in nature, and those which are inherent in the nature and formulation of the law itself.

In the first case there is the fact that the demand for places in homes is usually far greater than the number of places available. There is also a shortage of competent home directors and qualified personnel. A relatively large number of institutions are housed in buildings constructed in the last century or even earlier, and thus cannot often meet modern standards. Although there is a drive to replace them with new buildings, its progress is dependent on the economic vitality of each country. In the meantime facility and sanitary regulations can only be applied with reservations. These are some factors which force a somewhat elastic application of the law's requirements.

Problems which arise from the legislation itself can be traced to four main causes:

(1) The law cannot cover every eventuality. There will always be establishments, especially hotels and boarding houses, which manage to circumvent the law by adhering to a strictly literal interpretation of its prescriptions. In most cases it will be possible to take in the elderly as paying guests in such a way that the conditions of accommodations and care are not legally subject to official inspection.

(2) How effective *per se* is supervision? Experience has shown that it is difficult to form a true picture of life in a home merely through pre-licensing inspections and further spot checks. These measures allow for the detection of substantial divergence from prescribed norms and standards. They do not ensure that inspectors will capture the essence of daily life in a home which, although technically adequate, may contain negative, oppressive aspects. These shortcomings and abuses are not reported to the authorities in most cases.

(3) A successful supervision and inspection depend largely on the experience and quality of the inspectors, but many are insufficiently trained and tested.

(4) A severe measure, such as the refusal to approve the opening of a home or the decision to close one due to flagrant abuses, may be necessary to make supervision effective. However, the home authority or owner will generally seek a court decision, and the fear of a defeat or reversal for the supervisory authority in this process often induces public authorities to be extremely cautious when filing litigation. Although this entire process may acknowledge individual rights in a constitutional state, it does little to alleviate the social dilemma of elderly residents in such homes.

IX. Licensing of Homes

IN EXAMINING the prescribed manner in which homes are licensed we shall again compare relevant regulations in Belgium, West Germany, England, France, Holland, and Czechoslovakia. A distinction must first be made between the formal and material aspects of licensing. The formal aspects refer to the technical prerequisites for issuance of a license, i.e., application forms and procedures, and consequences for failure to comply. The material aspects refer to the qualitative prerequisites for receiving the license and the right to open and operate a home. We shall then consider the specific reasons for granting or refusing a license.

1. Formal Requirements for Licensing

A license for operating an institution for the aged may be granted in three ways:

First, the opening of any type of home may be legally forbidden unless expressly permitted. This is the case in *Holland* where Article 6/1 of the legislation cited previously prohibits the founding, construction, alteration, or extension of a home, or its transfer to another authority or owner, unless the current or future owner has received written clearance from the competent committee in the province.

Secondly, for example, *French* legislation considers permission to have been granted if the competent authority has manifested no objections within two months of receipt of the application (Article 203). If during these two months no formal objection is made, a home may be opened without further formalities.

Finally, in the case of *West Germany*, the draft legislation declares that anyone wishing to open an institution for the aged, one falling within the legal definition of such, must obtain prior permission. Such permission is intended in the future to be the formal prerequisite for the legality of the institution. However, this applies only to privately-operated homes since public and voluntary welfare institutions for the elderly are dispensed from the licensing obligation.

Despite these three different legislative rulings, the consequent differences in the legal situation of homes are much smaller than they might seem. Whatever the particular legal point of departure might be, the issuance of licenses always depends on the fulfillment of a series of formal requirements which vary little from one country to another.

(a) Application Form and Contents

To obtain a license, a formal application must usually be made (although in France a declaration of intent to open a home suffices). Applications for licensing generally contain the following particulars (in France they are obligatory when declaring intent):

- –Name and address of the institution, home authority or owner.
- –Legal status of the institution.
- –Name of director or chief administrative officer.
- –Nature of home's intended field of activity.

The decree of the *French* Ministry of Health (No. 72 0 990, October 23, 1972) requires, in addition, the following information based on relevant documents (Art. 15) joined to the declaration of intent:

- –In the case of legal persons, a copy of the articles of incorporation and the names of the organization's head or Board of Governors.
- –In the case of natural persons, a birth certificate, certificate from a designated doctor, information on previous places of residence and occupations, plus titles and diplomas if applicable.
- –A plan of the proposed accommodations and other facilities as well as detailed safety measures.
- –Regulations for the home's internal operation.
- –A provisional operating budget.
- –Background information on the proposed director or chief administrative officer: birth records, previous places of residence and occupations, degrees, etc.
- –Information from the Registrar's office on the marital status of the director or person functioning as such.

The declaration of intent should also specify:

- –The proposed types of residents, sex, and total projected number.

–How residents are to be fed and accommodated as well as the type of medical supervision proposed.

–Estimates of required residence fees including, where applicable, the public subsidies or insurance terms to be claimed.

Furthermore, two months' prior notice must be given to the Prefect if there are modifications in any of these areas: home authority, owner, or director; total number of categories of residents; accommodations or attribution of rooms; financial conditions of the home; ownership of the property; and legal status of the home or its owner or Board of Governors (see Art. 19, decree of October 23, 1972).

In *Belgium* the law demands that the following documents be joined to the application (Ministry of Public Health and the Family, Royal Decree of March 22, 1968, Art. 2):

–A plan of the premises, individual rooms, and the total number of beds as well as the number per room.

–A Health Ministry form completed and signed by the home authority or owner.

–A report from the fire safety authorities on precautions necessary in the home.

As in France, *Dutch* law requires prior notification of proposed modifications, especially with regard to alterations, extensions, and transfers to other home authorities or owners (see legislation governing old people's institutions, May 2, 1972, Art. 6d, 1).

In *England* an application for home registration must include (National Assistance Act/Registration of Homes, Regulations 1949, Art. 3 and Schedule 2):

–Location and type of construction of the premises and accommodations for residents and personnel and of the equipment and facilities.

–Date of construction or opening of the home.

–Full names and ages of the chief personnel of a home or section.

–Number of residents, excluding personnel, with distinctions made between the sexes and any other group categories.

–Number, occupation, and designation of personnel, including reference to the sexes involved and resident and non-resident employees.

–Existing or proposed measures for medical supervision and treatment as well as for nursing of non-serious ailments.

–Notification of whether board will be provided.

–Address(es) of another institution(s) for the aged in which the applicant has an interest, plus information on the type and extent of this interest.

In the *German Federal* legislative draft a distinction is made between application for licensing (Par. 5) and the subsequent notification after the opening of a home (Par. 6).* The opening of a home must be expressly announced to the competent authority, with information provided on the name and address of the home authority or owner, the type and location of the home and the number of beds, and the professional training and career experience of the director or person in charge of the home.

This obligation to notify the authorities also exists at a later stage, i.e., in any modifying of the nature of the home, the person of the director or his equivalent, the number of beds, or the locale of the home.† It also applies in the case of intended closure. In this event information on proposed alternative accommodations for residents and measures for terminating their contracts must be supplied to the authorities.

(b) Types of Institutions Licensed

The legislation in a large number of countries requires licensing only for the opening of private homes. In *England* local authority or other public homes or similar institutions which enjoy the special status accorded by Art. 37a of the National Assistance Act are dispensed from licensing. In *West Germany* homes run by voluntary welfare organizations (as defined in Par. 10 of the Federal Social Assistance Act) are also dispensed from licensing, but all categories of homes are required to register (Par. 6).

The question has already been raised if, from the social welfare viewpoint, it would be advisable to distinguish among private, public, and voluntary welfare homes when granting a license. The mere fact that a home is sponsored or operated by a public or welfare organization does not automatically guarantee high standards and quality care. Thus in *Holland* and *Belgium* no distinction between them is made in licensing requirements.

In principle a license can be granted to the home authority, owner, or owner-manager; the institution itself; or specific persons or organizations running specific institutions, i.e., combined systems. In the chapter comparing legislation in six different countries all three forms of licensing occur.

Personal licensing. In *England* we find registration *ad personam* or applicant in respect of home (National

*See Addendum, No. 5, p. 91.

†*Ibid.*, No. 6, p. 92.

Assistance Act of 1948, Art. 37/3). Assuming that the authorities manifest no opposition, an individual in *France* also has the right to run a home. In *Holland* the applicant must obtain written clearance for the construction or operation of a home (legislation of May 21, 1972, Art. 6d/1).

Licensing of an institution itself. In *Belgium* the law states that a license is delivered to the institution itself (legislation of December 5, 1966, Art. 2). The same is true in *Czechoslovakia* where the ruling is obviously determined by the nature of the socialist system.

Licensing for combined systems. This is the system proposed for the German Federal Republic. According to Par. 5(1) of the draft legislation a person wishing to open an institution covered by the law requires a license whenever the institution concerned is not a public or voluntary one. Par. 5(2) expressly emphasizes that a license is to be granted for a particular type of institution and for a certain number of specified rooms. The rationale to Par. 5 explains: "A license refers not only to a specific person but beyond the person to the institution and the accommodations themselves." As a consequence a new license, or modification of the existing one, is required whenever there is a change in the institution, such as a change of location or extension of facilities, etc.

2. Material Requirements for Licensing

There are several differences in the regulations governing material requirements for granting a license in the countries cited in this chapter. Some, e.g., England and France, formulate in the negative the required absence of grounds for refusal. In Belgium the norms and minimal requirements prescribed by the Government must be met. In West Germany minimal standards and grounds for refusal are provided in the legislative draft, Pars. 2 and 5(3).

The section which follows lists the legal requirements, specifically the grounds for refusal, with regard to granting a license.

In *France* the administrative authorities have two months following the opening of a home within which to oppose the issuance of a license in the interest of morality, health, safety, hygiene, and well-being of the residents (Art. 205 of the December 24, 1971 law).

In *Belgium* the home must fulfill the norms set by the King which refer in particular to the freedom of the residents and respect for their convictions; food, hygiene, and health requirements as well as safety; number, capability, and morality of persons employed by the home; premises; and bookkeeping (Art. 3 of the July 12, 1966 law).

In *Holland*, as has been discussed previously, planning is of primary importance in relation to licensing. The required clearance is not given by the provincial Board of Deputies if the proposed home does not fall within the framework of an overall plan for institutions for the aged or its implementation by the same provincial Board (Art. 6 of the May 2, 1972 law). A license can be refused if the home fails to meet the individual requirements of the Board which must in all cases cover norms similar to those prescribed in Belgium (Art. 6 of the cited law in conjunction with Art. 7).

The competent authorities in *England* can refuse registration, and consequently a registration certificate (the equivalent of a license), if they are *not* convinced that: the applicant or the director already employed or about to be employed, or any other person engaged in operating the home is suited to fulfill this task; the home, in whole or in part, is adapted to its purpose with regard to the state of its buildings, accommodations, personnel, facilities, or equipment; and the manner in which the proposed operation of the home guarantees the services or benefits which residents are entitled to expect (National Assistance Act, Art. 37 [3a-c]).

As previously mentioned, the legislative draft in *West Germany* states that the purpose of the law is to ensure the physical, intellectual, and spiritual well-being of home residents and to prohibit a disproportionate discrepancy between the services offered and the fees charged (Par. 2). According to Par. 3 the individual states may implement the law by issuing ordinances which establish minimal requirements for living, recreation, and sleeping accommodations, social areas, and sanitary installations and for the suitability of the director or his equivalent and of the personnel and the number employed.*

The bill provides for the refusal of a license in the following cases, although, in fact, such grounds are partially implicit in the non-fulfillment of the minimal requirements noted in Pars. 2 and 3:†

- –When the facts justify the assumption that the applicant is not sufficiently trustworthy to run a home.
- –When the physical, intellectual, and spiritual well-being of residents is not adequately guaranteed or the minimal requirements formulated in Par. 3 are not adhered to.
- –When an inspection of the terms of residence contracts reveals a noticeable discrepancy between the fees charged and the services offered.

*See Addendum, No. 3, p. 91.
†Ibid., No. 5, p. 91.

A comparison of the licensing conditions in the countries cited enables us to draw the following picture.

In all countries the granting of a license is subject to the fulfillment of conditions regarding adequate building structures, accommodations, and sanitary and hygienic facilities.

In most countries special safety regulations are in force. Where this is not the case, e.g., in *England* and *West Germany*, trust is obviously placed in the regulations which generally apply.

With the exception of *France*, examination of the suitability of personnel employed in the home is obligatory. However, in this respect there are some variations. In *Belgium* this examination is made according to the number of personnel, their professional experience, and morality, with no special mention of the director or his equivalent. In *West Germany* the director or his equivalent is particularly cited along with the other personnel. So too in *England*. In *West Germany* the trustworthiness of the applicant comes under review. The concept of suitability includes both professional competence and personal integrity. In the rationale to Par. 5 of the proposed legislation reference is made that, in accord with a ruling of the Federal Court of Administrative Law (*Bundesverwaltungsgericht*), this examination for trustworthiness must include the applicant's business acumen.

In *Belgium* the law considers the protection of the personal freedom and respect of the residents' convictions of primary importance. The same idea is formulated differently for *Holland*: freedom for an old person to conduct his or her life according to his or her own conception.

In some countries the license contains specifications for bookkeeping and fees: *Belgium*, legislation of July 12, 1960, Art. 3, together with the Royal Decree of March 22, 1963, VI; *Holland*, legislation of July 2, 1972, Art. 7; and *West Germany*, legislative draft, Par. 2(1). (For details on the regulation of these two items consult Chapter X, sections on accounts and fees.)

Along with these regulations which refer to concrete situations the law in some countries includes more generalized formulations which are often general clauses intended to permit subordinate authorities to implement it with flexibility of interpretation and decision. However, this deliberate choice of non-specific formulations often creates significant difficulties in practice.[13]

For example, the *French* legislation mentions the protection of morals and the well-being of residents (Art. 205). The *German* draft speaks of guaranteeing their physical, intellectual, and spiritual health (Par. 2(1)).* The *English* law merely lists as one possible ground for refusing a license the condition that the manner in which it is proposed to operate the home might be unsuitable to ensuring residents adequate services and facilities (National Assistance Act, Art. 37 3c).

Legislation in these different countries often formulates only the basic principles for licensing, whereas details are regulated by special implementation ordinances. These ordinances generally refer to the supervision and control of homes as well and will be discussed in Chapter X.

In concluding this section two remaining points should be noted.

Whereas the term "old" or "aged" is usually applied to persons 65 or older, the legal definition in *Belgium* provides for entry of persons 60 or older into homes (legislation of July 12, 1966, Art. 1), but in *Scandinavian* countries the equivalent age is 67.

In *England* licensing takes the form of entry into a register which is open to inspection. The charter, which certifies registration and documents the right to operate a home, must be displayed in the home itself (National Assistance Act, Art. 37, 3ff). The licensing authority has the right to demand that the number of persons accepted into a home does not exceed that specified in the registration certificate (cf. 1948 Act, Numbers in Homes, Regulation 1961, Art. 2).

3. Decision to Grant or Refuse a License

After the legal basis of the application, the observance of formal and material requirements, and the competence of the deciding authority have been established, a decision can be made to grant or refuse a license or to grant it subject to certain conditions.

(a) Granting a License

A license to run an institution for the elderly can be granted:

- –in *Belgium* and *West Germany* by the formal issuing of a license
- –in *Holland* by written clearance
- –in *England* by entry into the register and issuance of the registration certificate
- –in *France* by the absence of objections by the Prefect

With such a variety of administrative formulas the question arises if an applicant who meets all formal and material requirements has an automatic legal right to receive a license or if the final decision rests with the authorities.

*See Addendum, No. 2, p. 91.

In *West Germany* the reasons for refusing a license are specified in the legislative draft (Par. 5: 3, 1-3)* as well as the fact that a legal right to a license exists when no grounds for refusal are present (Par. 3, S. 25).

In *Holland* the situation is similar. Art. 6 of the May 2, 1972 law states that the Committee of a province can only refuse a license if the proposed home does not fall within the framework of the overall plan for old people's homes or its implementation within the province or if it does not, and in all probability will not, conform to the requirements laid down in Art. 7. Consequently there is an automatic right to receive a license in the absence of grounds for refusal.

In *France* it follows from the legislation of December 12, 1972, that even without a formal document, the legal right to open a home exists if no objection is raised by the Government within two months on the terms of Art. 205.

Similarly, in *England* the right to registration and to receipt of the registration certificate exists in the absence of grounds for refusal as specified in the National Assistance Act (27(3)).

In *Belgium* licensing is related to two requirements: fulfillment of the minimal norms established by the King, and a favorable report from the State Commission on Old People's Homes. However, it does not follow from the formulation of the legislation that meeting these requirements alone renders the granting of a license obligatory.

(b) Refusal of a License

Refusal of a license deprives the applicant of the right to open or run a home. Should this refusal be ignored, the authorities must intervene. The legal situation is similar to that in which the authorities conclude, on the basis of the results of their inspections, that it is not in the best interest of the public to permit an institution to continue functioning in its present form.

There exist various sanctions: withdrawal of a license, prohibiting a person to operate a home, closure, legal penalties. (In particular see Chapter X, section on sanctions.)

With regard to the form which refusal takes, the *Dutch* legislation (Art. 6f 1) states that the decision, with mention of the grounds on which it was made, is to be communicated to the applicant by registered letter.

A refusal by the Ministry must specify the reasons (Art. 8, 14) and the person concerned has the right of appeal (Art. 6 f 2). If the Committee of the province has taken no decision on the appeal within six months, the clearance is considered to have been given.

In *Belgium* the application and relevant documents are presented to the Commission on Old People's Homes for a preliminary opinion. If the Commission finds valid objections, it informs the applicant and requires him to present reasons further justifying the application within two weeks. Then the Commission formalizes its position and forwards the dossier to the deciding authority—Ministry of Health, Social Welfare Authority (*Arrêté concernant la procédure d'agréation et de fermeture des maisons de repos pour personnes âgées*, v. March 22, 1968, Art. 5).

Protection of an applicant's rights is strongest in *England*. Refusal to grant a license is governed by Art. 38 (1) of the National Assistance Act. At least two weeks before a final decision the authorities must inform the applicant—or the owner or home authority if it involves withdrawal of a license—of their intention, indicating grounds for refusal. They must also inform the person concerned that within two weeks of receipt of this notification he, in turn, has the right to notify them of his intention to appeal. In such a case the authorities must provide him with a suitable opportunity. Should they nevertheless turn down the application or withdraw registration, their decision must be put into a formal resolution a copy of which is sent to the applicant, owner, or authority. If he considers this resolution to provide grounds for complaint, he may appeal to the Court of Summary Jurisdiction responsible for the district in which the institution is or would be located. The effect of this appeal is to postpone the implementation of the adverse decision by the authorities until a final ruling is given in court.

In *France* licensing refusal must take the form of a letter from the Prefect indicating his decision within two months of receipt of the declaration of intent to operate a home. Refusal must be based on the grounds that the information received and/or subsequent investigations have revealed that the application does not conform to the legal stipulations or that the minimal requirements with regard to morality, health, safety, hygiene, and the general well-being of the residents have not been met (Art. 16, October 23, 1972 decree).

In the *German Federal Republic* no special regulations have been issued concerning the form of refusal to grant a license. Thus the authorities must proceed from the point of view that it is a normal administrative matter. Notification, the form of the refusal, and rights of appeal and complaint conform to the general legal and administrative regulations now in effect. However, it should be noted that Art. 16 of the draft legislation requires individual state governments to designate a competent authority to handle this type of situation (see rationale to Par. 16).*

In the case of privately-operated homes Art. 17 of the draft states that in principle the relevant stipulations of

*See Addendum, No. 5, p. 91.

*See Addendum, No. 12, p. 93; No. 13, p. 93.

the Trades Regulations are applicable. Par. 15 of these Regulations notes that a commercial undertaking, which requires special permission to pursue its activities, can be foreclosed by police intervention if it has not obtained such permission prior to beginning its activities.

(c) Conditional Grant of a License

Situations exist when the initial requirements for obtaining a license have not been met, but a refusal to grant one would be too severe or inappropriate. In such cases the authorities will issue a license subject to the fulfillment of certain conditions. This legal situation is analogous to that in which inspection by the supervisory authorities has revealed that specific changes and improvements must be undertaken. These conditions will be further discussed in Chapter X.

The question of which authority is responsible for granting a license is closely allied to that of supervision as well. Generally speaking, both are identical. For details consult Chapter X, section on authorities responsible for inspection.

SUPPLEMENTARY NOTES:

Social Planning and Institutions for the Aged

To what extent should the granting of licenses be based on the objective need for new institutions? This is considered directly in the Dutch legislation on old people's homes of May 2, 1972; and for this reason it can be considered as the most modern and progressive in Europe.[14]

The basic principle, found in Art. 3.1, requires each province to draw up a plan for its own territory showing the maximum capacity of all projected old people's homes, and their distribution throughout the province. In preparing this plan the opinions of the province's Committee for Homes for the Aged and the Advisory Center for Social and Cultural Welfare are to be consulted by the provincial Board of Deputies.

The draft of this plan is to be available for public inspection for a 30-day period in the province's administration files and at the office of the secretary of all local authorities in the province (Art. 4.1).

During these 30 days any interested party may present a written objection to the draft and submit it to the provincial Board of Deputies. The plan is to be passed by this Board within a 6-months period (Art. 5.1). It is then again made available for public inspection in the provincial chancellery and at the office of the secretary of all local authorities. The competent Minister is also informed of the passage of the plan. The plan once approved is to be reviewed at least once every five years (Art. 6 c).

The plan must be developed precisely according to regulations, with particular emphasis on the methods employed in determining demand, the establishment of priorities, the mutual coordination of planning, the linkup with other measures for aid to the elderly, and appropriate measures on a provincial level (Art. 6b).

The establishment, construction, alteration, and transfer of an old people's home are forbidden without written clearance from the provincial Board of Deputies (Art. 6d. 1). The Board can refuse such clearance only when the home does not comply with the prerequisites of the provincial plan or its implementation or with other regulations of the Board, e.g., referring to concern for residents' freedom, hygiene and medical care, fire safety, personnel, bookkeeping and equipment and facilities. Thus in Holland an old people's home can only be established and operated if it fits into the overall plan approved by each provincial Board.

What are the reasons for this far-reaching ruling and what other measures have been adopted in relation to it?

The major reason why planning occupies the central position in the Dutch legislation on old age homes, as we have already shown, is to be found in the unusually high percentage of residents already in homes for the aged in Holland (8.5% of the total population age 65 and over). The purpose in the long run is to reduce this figure.

This intention is reinforced by the present trend among social welfare organizations to promote an independent way of life for the elderly for as long as possible.

All planning is related to the question of an adequate income. Only when this is assured is it possible to continue an independent life style and reside in an outside alternative to institutional care. In the view of social planners in Holland, homes for the aged should be necessary only for those persons for whom no other solution can be found to exist.

As a result, the Dutch system of planning is based on these principles:

(1) All forms of assistance to the aged must be considered comprehensively, as one entity, not as separate units. Their need for places in homes must always be examined together with other existing solutions for continuing independence.

(2) Clearance for opening and operating a home is only given if such a measure is provided for in the provincial plan.

(3) Methods must be developed to determine the real need of the elderly for home care. Present methods are based primarily on the state of health of the aged desiring entry into a home, and such a system recognizes that a person's health status represents the result of his or her physical, intellectual, social, and family situation.

Hence, conscientious planning requires a knowledge of the old person together with an examination of his or her ability to function as an individual, including such considerations as intellectual capacity and social adjustment. This requires the establishment of objective evaluation criteria. Only then can it be decided if a person's request for entry into a home should be granted or if it would be preferable to adopt another solution.

(4) The need for objective evaluation criteria led to the creation of local Advisory Committees to examine requests for home entry. Art. 6 of the legislation forbids a home authority or owner from accepting an old person without first obtaining a decision from the Admissions Commission of the locale in which the applicant resides. These Commissions are appointed by the mayor and civil authorities on a local basis. Their function is to counsel the old person wishing to enter a home and to advise the home authority or owner on the type of care required. Every commission must include a doctor and a social worker.

These Admissions and Advisory Commissions offer the guarantee that before any decision is taken on a request for entry into a home, the applicant's case and need of care have been carefully reviewed and, under certain circumstances, alternative solutions have been suggested. In a case where a request for entry is approved, the home director is given objective factual information on the needs and desires of the new resident. The commission gathers its information through personal discussions with the applicant and, frequently, visits to his home. If the decision is negative, the applicant can advance counter-arguments for its reversal.

The importance of these commissions, however, extends beyond the limits of individual examinations. Part of their work is to develop lists of the established needs of the elderly as well as measures proposed in each case. This information is then presented to the provincial Board of Deputies. Thus these commissions contribute toward determining and evaluating the needs of the aged on a uniform basis. At the same time they help develop alternative solutions designed to promote the continued independence of old people. Thus, in addition to their localized, individual functions, these commissions are intended to play a wider role in the general planning of aid to the aged.

The Committees on Old People's Homes in each province are appointed by the provincial Board of Deputies (legislation of May 2, 1972, Art. 17). Their functions include advising the Board, either on their own initiative or upon its request, on the implementation of the laws on old people's homes. The provincial governments may make decisions or issue regulations concerning these institutions only after consultation with these provincial Committees. They have current information on the need for places in homes (in this respect the reports of the local Admissions Commissions are indispensable) and they must present an annual report to the provincial Board of Deputies on the implementation of the legislation and the current need for places in homes. This report is then presented to the provincial government (Art. 20).

The legislation just cited (Art. 16a) provides for the appointment of a Central Commission on Old People's Homes. On its own initiative or upon request, this commission advises the competent Minister (*Cultuur, Recreatie, Maatschappelijk Werk*) on all matters concerning old people's homes. The Central Commission must be consulted for the preparation of administrative regulations and ministerial decrees. The President of this commission is appointed and discharged by the Queen and the other members by the Cabinet.

The Central Commission should include leading representatives from provincial councils, local authorities, old people's homes, organizations for the elderly, social organizations active in aid to the aged, and independent experts.

The Ministry places a secretary at the disposal of the commission, and the Minister can delegate advisory officials to take part in meetings.

Although other countries also provide the legal fundamentals for planning in the field of institutions for the aged, they do not have the degree of coordination between general planning and the examination of individual needs which characterizes the Dutch legislation. In *Belgium* planning is connected to the question of state subsidies which are designed to assist in the construction of new homes and the alteration and re-equipping of existing ones (Ministry of Public Health and the Family, legislation of March 22, 1971, Art. 2). Public bodies or welfare organization homes are eligible for these subsidies (Art. 5 1a), but not the private ones. A decree of the Ministry on May 2, 1972 defines its position on planning:

(1) The total number of projected places in homes should be a ratio of seven per one thousand inhabitants (Art. 1).

(2) Location of homes should consider regional requirements, primarily to avoid uprooting the elderly from their familiar environment.

(3) In establishing these requirements, the following points must be considered: the current and future population structure, with special concern for increases in the number of the elderly; population concentrations in particular localities; medical and social indications which make entry into a home preferable to an independent mode of accommodation; and the number

of beds presently available, their quality and average utilization as well as the number of old people living in homes who need help in the basic life functions, in particular, those requiring close supervision.

In *France* also guidelines for future policy form part of the more far-reaching planning concepts concerning sanitary and social facilities for old people (Minister of Public Health and Social Security, State Secretariat for Social Welfare and Readaptation, circular no. 1575, September 24, 1972). These concepts are based on the following premises.

Within the framework of an overall national policy, greater emphasis should be placed on preventive measures.

The notion should be promoted that an old person should retain his individual household for as long as possible, thus maintaining his independence and achieving reintegration into society.

Care and accommodations in homes should be so adapted as to give complete satisfaction to the new residents and to consider more fully their individual needs.

In this circular there is a clear distinction between the needs of persons under and over 75 years of age, with special consideration extended to the latter.

The total number of places to be made available in old people's homes should be equivalent to 5% of the total number of old people. Of these, 40% should be for persons in good health and the remainder for the sick and handicapped. The trend, however, should be to increase the proportion of beds for the chronically ill, those who are permanent invalids, and the senile. The dividing line between social and medical cases with regard to entry into a home should always remain clearly discernible.

The French guidelines provide for the following concerning homes.

The founding of further hospices should in no case be approved.

Old people's homes—*maisons de retraite*—should primarily serve the purpose of accommodating the elderly in good health, whose entry is determined by social reasons. The construction of new homes should be undertaken only in exceptional cases with preference given to service flats (*logements foyers*).

Provision should be made only for small infirmaries—two to four beds in each home—to handle non-serious and temporary illnesses. Such infirmaries should be developed into geriatric counseling centers for other old people in the area. The development of clubs or restaurants for this group is also under consideration.

Old people's homes should not be used for the treatment of serious illnesses because they do not have the required personnel or technical equipment. In cases involving the treatment of residents whose health has deteriorated since they entered the home, the need to extend infirmary services can arise under certain circumstances. If a home so develops that it assumes, in whole or in part, the character of a health institution (*maison de santé*) or a nursing home (*maison de cure medicale*), it must be reclassified. In general, however, an old people's home should retain its character and those whose ill condition requires special treatment should be transferred.

Commissions on Aging Problems and Institutions for the Aged

In a number of countries advisory commissions have been established to help develop social policy for the elderly. The importance of old people's institutions has led in some instances to the creation of special commissions on old people's homes. These various groups can be compared as follows:

(1) Advisory Councils for Social Policy for the Aged
  (a) at a Federal or national level (as in Belgium and West Germany)
  (b) at a regional or provincial level (as in the Rhineland-Pfalz area in West Germany)

(2) Commissions or advisory councils for issues relating to old people's homes:
  (a) at a Federal or national level (as in Holland, Belgium)
  (b) at a regional or provincial level (as in Holland)
  (c) at a local level (as in Holland)

(3) Committees for individual institutions (as in Scandinavia)

1. Advisory Councils on Social Policy

The purposes of these bodies are defined as follows in *Rhineland-Pfalz:* "Faced with the necessity of integrating old people and the complexity of this task, and also with the need for the cooperation of a large number of institutions and people, the State Government (*Landesregierung*) has decided to institute an Advisory Council on Social Policy for the Elderly. The constant, rapid changes in social realities coupled with the changes in social consciousness render it imperative that those responsible for the well-being of elderly people take suitable steps to bring these two factors into effective and equally constant harmony."

The purpose of the Advisory Council is to provide the state government with expert practical advice on the health, social, psychological, and economic problems of old people. The variety and complexity of these tasks require that the members of the council be drawn from many differing fields of activity, such as leading local

authority organizations, voluntary welfare organizations, churches, unions, employers' associations, labor administration, social insurance authorities, associations of medical practitioners, regional sports groups, war victims' associations, and adult education. In addition, the President of the State House of Representatives' Committee for Socio-Political Questions, a doctor, psychologist, social scientist, social educator, architect, home director, journalist, and a representative of the older generation should be invited to join.

Under the chairmanship of the Minister for Social Affairs the council should make available professional advice on all important questions of social policy affecting the aged and collaborate on a triennial report on the situation of the elderly in Rhineland-Pfalz (Ministry for Social Affairs, Planning Policy for the Elderly, Rhineland-Pfalz, Mainz 1970, p. 87ff.).

In *Belgium* a Royal Decree of September 8, 1968, together with one of March 23, 1971, created a High Council for "third-age" citizens (*Conseil supérieur du troisième âge*) under the auspices of the Ministry for Public Health and the Family which also provides the necessary finances.

The task of the High Council is, on its own initiative or upon request, to inform the Ministry of its suggestions on matters affecting those in the "third age" or the "fourth age" (persons over age 75). These suggestions should take the form of substantiated reports and should contain any mention of differences which have arisen within the Council (Decree of September 8, 1968, Art. 2).

The Council consists of up to 35 members, in addition to the President, selected from the following organizations: pensioners' representatives, national organizations involved in social aid to the aged, associations of home authorities or owners, and doctors in the field of geriatrics. The President is appointed by the King. The Council's activities are organized and coordinated by the "Bureau," a higher committee consisting of the President, the two Vice-Presidents, and seven members and scheduled to meet at least eleven times a year.

It is the task of a technical committee to assemble the required documents and to undertake investigations necessary for the work of the Council. This committee consists of government officials and representatives of public bodies, the latter being mainly from the fields of social insurance, social medicine, labor, housing authorities, and officials in economic planning.

An annual report on Council activities is presented to the competent Minister. The General Secretary to the Ministry of Public Health and the Family has the right to attend its meetings.

In addition to this Council, the March 23, 1971 decree created a High Council for Family Affairs (*Conseil supérieur de la famille*) which to a large extent is conducted according to the same principles.

Both Councils have a common secretariat under the supervision of a General Secretary and his deputy, both appointed by the King.

The status which the High Council for the "third age" enjoys and which is granted to it by the government and the legislative body, as well as the nature of its composition including prominent representatives from the most important organizations involved in direct and indirect assistance to the aged in Belgium, indicate how important its work is considered. It is clearly designed to seek solutions to problems in a field of growing concern, by engaging in this process representatives from social and political spheres which have the assent of all major sectors of the Belgian public.

2. Commission or Advisory Councils for Old People's Homes

These bodies are found in particular in the Benelux countries.

In *Belgium* Art. 4 of the legislation of July 12, 1966 concerning conditions in old people's homes provides for the appointment of a commission to the competent Ministry to handle questions related to the implementation of the laws (*Commission des maisons de repos pour personnes âgées*). This commission, not to be confused with the previously mentioned *Conseil supérieur du troisième âge*, has two functions: to advise the government on matters related to the legislation and to vote on applications for home licensing (although it does not have the right of veto). It may act on its own initiative or upon the request of the competent Minister. The President, eleven members, and their deputies are appointed for six years by the King on the recommendation of the Minister (Art. 5).

A license may be granted, refused, or withdrawn only by the Minister after consultation with the Commission (Art. 2a). This ruling also applies to the closure of a home (Art. 7).

The Commission's Secretariat consists of two persons representing the two national languages. Sessions are not public. Before the Commission decides on a licensing application, the members have the right to consult the relevant documents. Representatives of the home authority or owner concerned may also be interviewed.

The Commission may conduct its own investigations or require that the Ministry make inquiries at which its members may be present (*Commission des maisons de repos pour personnes âgées, Reglement d'ordre interieur*, June 15, 1967, Pars. 2 and 9).

In *Holland*, as we have already seen, the commissions on old people's homes are active on all three administrative levels—national, provincial, and local.

3. Committees for Individual Institutions

Norway, Sweden, and Denmark establish special commissions for individual homes. These commissions are elected by the local Committees for Health and Social Affairs to which they are in turn accountable. Their task is to visit homes at regular and frequent intervals and report their findings to these aforesaid Committees.

X. Supervision and Inspection of Homes

The purposes of supervision and inspection are in fact the concrete application of the purposes of the legislation itself, although the wording of the legislation cited in various European countries in Chapter VI often given no precise definition of these purposes. Supervision and inspection, if mentioned at all, are described in a generalized, formal, or indirect manner.

Article 39 of the *English* National Assistance Act of 1948 governs the right to inspection without mentioning for what reasons inspection could or should be conducted.

The right to control and supervision, as specified in the *Belgian* law of July 12, 1966, refers to supervision of the implementation of the laws and relevant ordinances.

Similarly the *Dutch* legislation of May 2, 1972 states that control should ensure the observance of the ordinances decreed by the legislation (Art. 13).

As in England, *French* legislation makes no formal mention of the purposes of control. There is merely indirect reference to the right to obtain information on the moral and material conditions prevailing in a home.

In the *German* legislative draft, however, the purposes of the legislation and those of home supervision are expressly stated in Par. 2.*

Given the lack of any formal definition of the purposes of supervision of homes for the aged in most countries, these aims must be deduced from the motives behind the legislation and from its associated ordinances. Accordingly, the main functions of supervision of homes may be interpreted as:

- –Controls as to whether legal stipulations governing old people's homes are duly applied. Further controls must be carried out to ensure that there are no infringements against the law in general, e.g., taxes, health.
- –Controls as to whether the conditions or regulations specified at the time of licensing or during later inspections are adhered to.
- –Controls as to whether any changes have been made and whether these changes require revision of the license.
- –Controls to verify if complaints made are justified.
- –General controls of the conditions in the home that affect the physical, intellectual, and spiritual well-being of the residents.

Through supervision and control the state fulfills its obligation to protect and assist its elder citizens for political, socio-political, and humanitarian reasons. The state also desires guarantees that the substantial sums of money invested in institutional assistance for the elderly, e.g., in the form of construction, alteration, and maintenance of homes, are used appropriately and that the numerous beneficiaries of public aid and insurance receive the necessary care and attention.

As in the case of licensing, a distinction must be made between the formal and material aspects of supervision. The formal aspects of control will be explored in this chapter, and the material aspects in the following one.

1. Legal Basis for Supervision

Supervision of homes is governed by regulations contained in Pars. 8-10 of the *German* draft legislation and Art. 208 ff. of the *French* legislation of December 24, 1971. The *Belgian* law of July 12, 1966 states in Art. 6, Par. 1, that the application of the present legislation and its implementation ordinances are to be supervised by the relevant Ministry–in this case the Ministry of Public Health and the Family. In *Holland* the legal basis is provided in Art. 15 of the law of May 2, 1972. In each province the Committee designates one or more officials to ensure that the regulations laid down in accord with the law are observed. Supervision in *England* is governed by Art. 39, 1 and 2, of the National Assistance Act. The regulations empower representatives of the Health Ministry or the registering authority to carry out inspections. These regulations have been broadened and completed by Art. 4 of the National Assistance (Conduct of Homes) regulations of 1962.

2. Types of Institutions Covered

Are public and voluntary welfare homes exempted from supervision?

*See Addendum, No. 2, p. 91.

The *Dutch* law makes no distinction between different categories of homes. In *Belgium* it is expressly stated that the law refers to homes run by both public and private bodies. In *France* the governing and supervisory regulations apply also to homes founded by *collectivités publics*. In *England* certain categories of homes are excluded from public control, such as state and local authority homes and institutions whose existence is governed by a special act of Parliament or by Royal Charter.

Contrary to previous licensing regulations in *West Germany* which applied only to privately-operated homes for the elderly, the present legislative draft makes it valid for all categories. However, as mentioned before, the regional voluntary welfare organizations, together with the leading local authority organizations and other associations, may upon application participate in the supervision of institutions belonging to their organizations if these homes agree (Par 9 (1)). The competent authorities may also delegate the supervision of homes affiliated with them to a regional voluntary welfare organization.* Such an agreement would be revocable. The possibility of a similar transfer to a leading local authority organization is not mentioned in the draft. The proposed ruling is an attempt to reach a compromise between the legislature's tendency to place all categories of homes under its own supervision and efforts by public and voluntary welfare bodies to maintain autonomy from state supervision.

In this regard problems which may arise when supervisory authority is shared or delegated may be of some concern to other countries. The German Federal Republic has a certain amount of experience in both areas as a result of amended legislation on youth welfare in 1961. Here too the central authorities of the voluntary youth aid organizations were granted the right to participate in the inspection of homes (Youth Welfare legislation, Par. 78, section 5 and 6). The delegation of supervisory power to these organizations was also made revocable (Par. 78, section 6).

The controlling authorities maintain that this delegation, which constitutes a form of self-control, has not worked out in practice.[15] On the other hand, the sharing of supervision with leading organizations is considered a complete success. Collaboration in this area eases and improves supervision and the organizations can act as intermediaries between state authorities and the authorities of the homes belonging to their organization. The professional competence of these long-active organizations benefits both the process of supervision itself and the functioning of the institutions under their auspices. Above all, this cooperation promotes informal contacts and facilitates consultations. These factors have proved to be often more significant than formalized control with the threat of sanctions.

Such collaboration makes it possible, by means of reasonable compromise, to find solutions and make improvements of interest to both parties.[16] From their knowledge of the results of the implementation of the youth welfare legislation and the supervision of privately-run old people's homes, experts in aid to the elderly in West Germany have concluded that the delegation of supervisory authority to welfare organizations should be excluded, but that the sharing of these rights between public authorities and leading voluntary organizations would be highly desirable.[17]

I am also of the opinion that while the delegation of supervision to welfare organizations is not practical from a socio-political and administrative point of view, collaboration between public and voluntary bodies is preferable. I also suggest that representatives of private organizations operating homes and the aged residents of homes themselves be included in such an arrangement, with, of course, appropriate organizational structures.

3. Methods of Supervision

All the legislation compared here (*Belgium*: Art. 6, July 12, 1966; *France*: Art. 209, December 24, 1971; *Holland*: Art. 14, May 2, 1972; *England*: Art. 14, 1948 law; and *West German* draft, Par. 8, July 7, 1972) reveals similar methods of supervision. In all cases there are the same basic principles:

- –The obligation of the home authority or owner and the director or his equivalent to provide any information that may be required.
- –The right of the authorities to inspect accounts and business transactions.
- –The right of the authorities to inspect the site and facilities of the home.
- –The right of the authorities to question employees and residents.

4. The Obligation to Provide Information

This obligation is the inspecting authority's most effective instrument and, consequently, forms an important part of the legislation. Information must be given either at the time of application for a license or upon the opening of a home; or it may result from the manner in which a home is operated. Certain general information is required by law, whereas other information may be required by individual request or as a result of complaints or objections.

In most of the legislative examples cited the type of information required is not clearly specified. In some

*See Addendum, No. 8, p. 92.

cases the supervisory authorities are empowered to demand such information as is necessary to carry out the supervision specified in the legislation (as in Holland and West Germany). The right to obtain information and the corresponding obligation to provide it are more clearly spelled out in the French law referring to the information required in the declaration of intent and the contents of the home's register of residents.

In the uniform regulations governing the supervision of privately-operated homes for the aged in the 11 Federal German states between 1968 and 1970, the obligation to provide information refers to capital assets and commercial operations. These regulations state (as does Par. 8, section 1 of the present legislative draft which would be valid for the entire country) that this information is to be provided free of charge orally and in writing, within the period specified (e.g., Hesse, Regulations governing privately-run old people's homes, Par. 13, October 7, 1969). The implementation clauses of the Homes Regulations in these Federal German states define more clearly the concept "information." Here it signifies the answering of questions in specific instances, not, however, general and regular information about business affairs (e.g., Bavarian State Ministry for Economy and Commerce, Mutual Resolution on the Implementation of Homes Regulations of October 1, 1968, Ell). The obligation to provide written information includes the presentation of relevant copies, extracts, and summaries. The administrative authority may not exceed the limits of its powers or make any unreasonable demands. Similar legal definitions do not exist in the legislation on homes for the elderly in other countries. However, it is to be assumed that the same principles of interpretation are generally valid even if not made explicit.

5. Inspection of Accounts

The subject of business accounts is often of decisive importance in the supervision of homes. Accounts reveal procedures and transactions which offer proper insight into the organization and operation of a home. Thus it is understandable that in some countries the law not only requires the inspection of accounts, but also prescribes what information they must contain.

There are various forms of legal rulings with respect to bookkeeping. In some countries, e.g., *Holland*, the law requires that regulations concerning bookkeeping be issued, but the manner in which this clause is implemented is the affair of the provincial Committee (Art. 7, 1). This is true also for *West Germany* where in Par. 7 of the legislative draft only the principal is stated,* the implementation being left to the individual states. With regard to the supervision of privately-run homes for the aged the states, in turn, have issued detailed regulations in their laws of implementation.

England and *France* have no bookkeeping regulations with regard to manner or content. On the contrary, *Belgium* has detailed regulations on this matter, including a long section on accounting norms. Among other things a uniform plan of expenditure must be provided by homes with a minimum of 50 places. There is a clear division between investment and operating costs. Both categories are subdivided into numerous sub-accounts which provide an overall picture of the individual area of expenditure with regard to the home, the equipment and facilities, and the individual resident. Expenditure on interest and amortization is also included. An index card on each resident is provided containing this information:

- –Manner and source of payment, including all social security, health insurance, and welfare benefits.
- –Inventory of furniture in his own room.
- –List of all objects and sums of money deposited in the care of the home.
- –Income and expenditures with regard to his bill.

The resident or person or organization responsible for his entry into the home must be provided with a monthly statement of account.

The regulations in different states in *West Germany* concerning private old people's homes, service flats, and nursing homes contain these stipulations on bookkeeping (e.g., Schleswig-Holstein, Regulations issued on April 1, 1969, Par. 10). In accord with the principles of orderly accounting the owner or governing body of the home must keep proper records and preserve all relevant documents and receipts. The documents must be set down clearly and in German. The records, documents, and receipts must contain information on:

- –Surname, first name, date and place of birth, previous address, date or entry or departure from the home, date of decease when applicable, name and address of next of kin.
- –Arrangements made concerning conditions of residence in general, not merely those concerning occasional, additional, or special services, and the agreed charges.
- –Manner, amount, and date of payment for services and benefits.
- –Sums of money, jewelry, bonds, securities, or other objects entrusted for safekeeping, and their location.
- –Surname, first name, date and place of birth, address of each person employed in the home; professional

*See Addendum, No. 7, p. 92.

training and employment history of nursing personnel.

–Certificates of good health for employees as required by law.

–Home rules where such exist.

Par. 12 of the regulations also requires the home to keep copies of all publications and advertising pamphlets, particularly advertisements describing conditions, services, or benefits offered. Even the length of time during which charge slips and advertisements must be kept is specified. In general, this period extends to five years after the end of residence (in the case of charge slips) and five years after the termination of business activity or the validity of the home's internal regulations.

The *Berlin* implementation regulations of July 1, 1968 (II 10a) contain these stipulations: "The records, documents, and receipts must be so ordered as to allow examination of the propriety of conditions of entry. In particular, they must contain information about the fees required for residence and other possible additional and special services and benefits, and information on the services and facilities which the home must provide. Correspondence with the residents also forms part of the above-mentioned documents where no special written contract of entry has been concluded."

In some instances, e.g., the Rhineland-Pfalz regulations of December 2, 1970, E II, the presentation of such documents to the authorities can only be required in exceptional cases. In carrying out the inspection, consideration must be shown for the interests of the owner or governing body of the home. Other persons should be questioned only if inquiries conducted with the owner or governing body fail to clarify the issue at stake.

The accounts must not be accepted if the information on procedures and transactions required is not sufficient or clearly presented. So-called "scraps of paper" in no way meet the requirements of the principles of orderly accounting (Rhineland-Pfalz E III).

Some regulations, e.g., the Schleswig-Holstein regulations of June 3, 1968 (EI), require, in addition, that the records be bound and the bookkeeping be set up in the form of a card index. Reference to general entry conditions and fee schedules is not sufficient. Spot-checks to ensure that objects entrusted to the home for safekeeping are still there must also be made. When money is entrusted for safekeeping, and not as a loan, the owner or governing body may not invest it in his business. He is obliged to place it in a special account. Offenses in this matter usually cause re-examination of his trustworthiness.

Two further issues connected with bookkeeping requirements and the inspection of accounts remain to be discussed: the financial trustworthiness of the owner or authority, and the setting of adequate, acceptable, and fair fees.

In accord with regulations in force in the Federal German states, e.g., Saarland regulations of April 1, 1969, Par. 13, the owner or governing body must provide information on his (its) financial assets. This information is usually obtained by inspecting the books and other relevant documents. Almost all implementation regulations stipulate that inspection of the financial situation of the owner or governing body is required when the circumstances of a specific event cause apprehensions about the proper use of money and similar objects of value entrusted to the home for safekeeping, or when the owner or governing body is unable for financial reasons to continue operating the home in a proper manner (e.g., Rhineland-Pfalz regulations of December 2, 1970, E VI).

A distinction must be made, however, between the above issues and the question of examining the profitableness of a home. This examination is not the task of the supervisory authorities (Technical Instruction of October 21, 1969, 6. 309, Free Hanseatic Town of Hamburg).

In considering fees, reference must be made to the fact that here, as in other cases, the laws generally applicable usually are related to the special rulings in the legislation governing old people's homes.

The *Dutch* law obliges the provincial Committees to ensure that the fees charged are in proportion to the board and accommodations offered. The Committees can specify relevant regulations (Art. 8, 1).

In the *Federal German* draft this subject is included in Par. 2(1) which discusses the purposes of the legislation itself. Here it is stated that the law must ensure that no noticeable disparity arises between fees charged and services and facilities offered.*

In neither country does the law provide for officially fixed fee structures. The purpose rather is to protect the residents of a home, as well as those applying for entry, from fraud or deception.

The present Homes Regulations in the *Federal German* states contain no mention of fixed fee schedules. This is probably caused by a desire to avoid state intervention in the enterprise of privately-run homes. However, to make it possible to supervise the fees charged, the regulations require that arrangements made concerning residence in general, and not merely those for occasional, additional, or special services, as well as the agreed-upon charges, must appear in the records, documents, and receipts (e.g., North Rhine-Westphalia, Homes Regulations of February 25, 1969, Par. 10 (2)).

**See Addendum, No. 2, p. 91.*

The implementation regulations issued by the Berlin Senate on October 3, 1967 state that in case of doubt concerning the due proportion between fees and services, the Price Control Board must be consulted.

The wording of the Schleswig-Holstein implementation regulations of June 3, 1969, El, is worthy of note in this context: "The owner or governing body is at liberty to fix his (its) own fee schedule and, in principle, the authorities may not contest the decision of this enterprise. On the other hand, a noticeable disparity between charges made and the services and facilities offered would appear to indicate untrustworthiness on the part of the owner or governing body which can give rise to default proceedings in accordance with Par. 35 of the Trades Regulations."

6. On-Site Inspections

In all countries the legislation empowers the supervisory authority to inspect the site and facilities of a home, although details on what should be determined by these visits are not generally provided.

Can on-site inspections be carried out at any time, day or night?

This question is answered only in the *French* and *English* legislation.* In England inspection may only be conducted at all reasonable times, i.e., evenings and nights are generally excluded. The French law states that inspection can be conducted at any time of the day or night. This right is qualified by stipulations that night inspections, i.e., between 9 p.m. and 6 a.m., may be carried out only in the event of an emergency call from the institution itself, a complaint being made, or on the authority of the public prosecutor. The grounds for such action must be provided in writing to the director of the home or his equivalent. Where female personnel are involved, night inspections must be conducted by women.

In those countries with no legal ruling governing the hours of inspection, the authorities can proceed from the position that inspections may be carried out at night only when they do not consititute an infringement of general criminal procedures or police regulations. It goes without saying that inspections at such late hours will occur only as exceptions and in special circumstances.

Must inspection visits be announced beforehand to the owner or home authority?

Only Par. 8 of the *German* draft legislation answers this question. It states that the supervisory authorities may conduct inspections without prior warning. As in the previous question, when there is no legal ruling, the authorities can proceed form the position that prior notice is not necessary.

*See Addendum, No. 9, p. 92.

Does the right of on-site inspection not constitute a violation of the inviolability of private residences, a condition guaranteed by most constitutions?

Thus, Art. 13 of the German Federal Constitution states: "Private residence is inviolable. Normally only a judge may issue a search warrant. In the case of imminent danger authorization may be given by the other authorities as empowered by law. The search must be carried out in the manner specified by law. Encroachment on, and limitations of, the right to privacy of residence are only justifiable in the event of danger to the public or to the lives of individuals. This principle applies also to the prevention of imminent danger to public safety and order if appropriate legislation in this respect exists."

On the other hand, the *lex specialis* in Par. 8, section 2 of the German Federal draft states that the inviolability of private residence is qualified in reference to the right of inspection of those persons charged with supervision of the institution. This qualification refers expressly to the right to enter the institution, its grounds and premises; to conduct investigations and inspections; to have access to the accounts and other documents connected with its commercial operations; and to contact residents and question employees.

7. Contact with Residents and Employees

In some countries, e.g., England, France, West Germany, the law empowers persons charged with supervision of a home to contact the residents. In *West Germany* the right to question residents also exists, but nowhere is it specified if such questioning may take place in the absence of the home's owner, authority, or director, but one can assume that this is the case. According to the *French* legislation the purpose of questioning residents is to obtain a clear picture of the material and moral conditions prevailing in the home.

The rationale of Par. 8 of the German Federal draft speaks of a dual purpose in these contacts with residents and personnel. Direct contact should aid in revealing any abuses in the operation of the home, and should also help provide resolution for unjustified objections on the spot. An obligation on the part of the residents and personnel to provide information only exists where a refusal would constitute obstruction of the course of the law. Thus the inviolability of the accommodations of residents and personnel is not qualified by the terms of the proposed legislation.

Only in a few cases is a ruling given in law as to how often inspections should or may occur. There is often good reason for this omission. The frequency of visits depends on two factors: the number of inspectors available and the amount of time at their disposal, and

the state of the home under inspection. It is reasonable that homes which are considered problematical should be inspected more frequently than those considered to be "normal" or "almost normal." However, the concept of "normality" becomes problematical in itself when applied to such a complex phenomenon as a home.

In Hesse an inspection visit is required once a year (mutual circular of October 7, 1969, V II). Other regulations indicate longer intervals between visits. Rhineland-Pfalz (implementation regulations of December 2, 1973 E I), Bavaria (*sic* of October 1, 1968 E I), and North Rhine-Westphalia (*sic* of November 28, 1968, 5 1) mention a period of two years within which inspections must be made. Bremen (guidelines on the implementation of the Homes Regulations of April 30, 1968) and Lower Saxony (implementation regulations of December 13, 1968 E 18) require inspection at irregular intervals, "if possible, every two years."

Such general rulings are distinct from those cases where immediate inspection is necessary for special reasons, i.e., as a result of information or complaints received.

If home inspection is to fulfill its purpose, visits should be conducted at frequent intervals. It is justifiably held that the purpose of supervision should be primarily to counsel and assist. But this presupposes a close acquaintance with the particular home in need of counsel, and such familiarity can only be obtained by frequent visits. Regular visits tend also to have more impact on the operation of a home than irregular ones. It also seems unlikely that inspections made only at such lengthy intervals can suffice to achieve the purposes of the legislation, i.e., to ensure that the elderly may lead a decent life in institutions designed for their care.

8. Authorities Responsible for Supervision

Generally speaking, the supervision of homes is under the same authority responsible for licensing. The question of who these authorities are is closely related to the nature and structure of public administration in the different countries. The deciding factor is whether the administrative structures in each case are federalized or centralized. In countries with a more federalized type of administration, such as West Germany and Holland, the responsibility is delegated to administratively autonomous units such as states or provinces. These, in turn, delegate the executions of their functions in large measure to local authorities. Countries with a more centralized administration, as France or Belgium, place licensing and supervisory authority in the central government which may in turn delegate these responsibilities to subordinate state departments. The exact situation in individual countries is as follows:

German Federal Republic

Par. 16 of the legislative draft provides for the designation by the state authorities of the competent body to implement the laws.* This corresponds to the present ruling on the supervision of privately-operated homes. There are reasons to suppose that legislation in the states will not substantially alter the status quo for the implementation of the new legislation on old people's homes. If so, licensing and supervision will remain the responsibility of the lower administrative echelons, i.e., the county councils and the municipal authorities in independent towns. These authorities charge the welfare offices with carrying out the controls, and the welfare offices in turn generally co-opt the services of the Health Office and, where necessary, the local Trades Boards to assist in the inspections. The responsibility of the Health Office has usually included, up until now, ensuring compliance with the regulations on health protection (as specified in the Trades Regulations) and the observance of other health requirements. In most regulations it is stated that persons concerned with the administration of regionally or municipally owned homes may not be entrusted with supervisory duties.

France

Art. 208 of the law of December 24, 1971 states that the supervision of homes is to be conducted by officials of the General Inspectorate of Social Affairs and the leading authorities of the health and social program (*Direction de l'Action Sanitaire et Sociale*) under the auspices of the Ministry of Public Health and the Prefects of the Departments, without prejudice to controls arising from the law in general.

Holland

The Kingdom of Holland is divided into 11 provinces which are substantially self-administering. In accord with Art. 13 of the legislation of May 2, 1972 the provincial Board of Deputies commissions one or more officials to ensure adherence to the regulations implementing the law.

The organization of the supervision of homes on a provincial basis makes it possible to appoint specially trained experts to deal exclusively with this task. Only the three largest cities in Holland—Amsterdam, Rotterdam, and The Hague—have their own supervisory authorities, due to the fact that more than 50 institutions for the aged are located in their respective areas.

Belgium

Art. 6 of the law of July 12, 1966 decrees that the application of this legislation and its relevant

**See Addendum, No. 12, p. 93; No. 13, p. 93.*

implementation regulations is to be supervised by those officials or employees of the competent Ministry (in this case, the Ministry for Public Health and the Family) so designated by the King. This supervision includes the right to inspect the institutions and their accounts and documents. Thus in Belgium supervision is conducted uniformly throughout the kingdom by ministerial officials and employees.

England

The right to conduct inspections, as laid down in Art. 39 (1) of the 1948 National Assistance Act, is granted to those persons so authorized by the Ministry of Health. This grant of authority has taken the form of charging the local authorities (county councils, county and London boroughs) responsible for social services with this task of inspection. The intentionally vague formulation of the criteria in the regulations on standards, which form the basis of homes supervision, is a characteristic feature of conditions in England. As a result, local authorities have much room to manuever in making decisions and in reality assume responsibility for these matters.

A comparison of these different types of supervisory authority reveals a spectrum of varying forms which can be characterized as:

- –national: Belgium
- –provincial: Holland
- –semi-centralized: France (*via départements*)
- –local authority: West Germany (rural districts, municipal authorities)
- –county councils, boroughs: England

Evaluating these different forms is not simple because each represents a part of the overall system of administration which has developed historically in each country. But in terms of the optimal realization of the goals of supervision, one can argue that the best solution is to carry out supervision on a level which makes it possible to appoint inspectors who can devote themselves solely to the supervision of homes, including licensing and inspection duties. At the lower administrative level this will not be possible in most cases.

An official specialized in the supervision of homes will usually have much experience and professional knowledge, and will make a good advisor. His overall view of the situation will enable him to make uniform decisions for a larger area. These, in turn, can form the basis for generalized, central rulings.

Aside from the question of the frequency and thoroughness of inspections, the level and experience of the inspectors as well as the attribution of appropriate official status is of decisive importance in ensuring successful inspections. Even the best legislation is not effective in practice if it is not enforced by a suitable control apparatus (see details in Chapter XII).

9. Inspection Reports

Legislation in most countries requires that reports on the results of inspections be filed.

In *Holland* Art. 15 of the law states that these reports must be forwarded to the provincial Board of Deputies and its associated Commission on Old People's Homes.

In *Belgium* the law (Par. 6.2, July 12, 1966) requires that a report be compiled in those cases where offenses against the law have been uncovered. Until proof to the contrary, the contents of the report have legal standing. A copy of the report must be forwarded to the institution cited within three days after the visit.

In *West Germany* the subject of inspection reports is not given special mention in the legislative draft because the conduct of home supervision is to be governed by individual state regulation. In the implementation regulations of some states this question is already covered. In Bavaria (regulations of October 1, 1968, E 1) records are to be kept of inspections; shortcomings or offenses are to be reported individually and in detail; generalizations are sufficient neither for proceedings to withdraw the trade license nor for any other administrative measures. (Compare also the Bremen guidelines of April 30, 1968, E 1, previously cited, and the Hamburg technical instruction, no. 1/69.6.307 of January 21, 1969.)

In Hamburg it is left to the discretion of local government offices to determine requirements for inspection reports. However, certain minimal records must be kept, showing when an inspection was carried out, what was examined, and what the findings were.

Because of the possible legal significance of a report in influencing administrative decisions and, in many cases, judgments of the Courts for Administrative Law and Criminal Courts, it is imperative that a report be as complete and detailed as possible.

10. Unsatisfactory Conditions in a Home

What are the consequences when inspection has revealed the presence of unsatisfactory conditions in a home? Before resorting to punitive measures, state authorities will usually try to remedy them through amiable counseling and/or by issuing particular instructions for improvements. Thus:

England

Art. 6 of the Conduct of Homes Regulations, 1962, provides that when registration authorities consider that the managers of any home have failed or are failing to conduct the home in accord with the appropriate

regulations, they may give written notice by post to the managers, specifiying in what respect the latter, in the opinion of the authorities, have failed or are failing to comply with these regulations and what it is necessary for them to do to comply.

The supervisory authorities are obliged to take further steps, such as issuing directives, etc., only if at the end of three months (assuming no other limit has been set) the institution has not remedied the abuses for which it was cited.

France

Art. 210 of the law of December 21, 1971 gives this ruling: if the health, safety, moral or physical well-being of residents are in any way threatened or impaired by reason of the state of the institution, its organization, or the manner in which it is operated, the Prefect may direct the person or body responsible to remedy these abuses within a period of time which he will specify.

Belgium

Art. 7 of the legislation of 1966 includes in (1) a provision which empowers the Minister, after observing certain formalities, to close a home found guilty of abuses. There is no provision in the legislation for the stipulation of conditions or the issuance of injunctions. However, in a case where it is the intention either not to grant a license or to withdraw one, the Ministry is obliged to inform the home authority or owner of its intention before a definite decision is taken and to give the authority or owner the opportunity to present a letter, stating its position, to the Ministry within two weeks (Decree of March 22, 1968, Arts. 5 and 10).

Holland

Arts. 7 and 9, 1-3, of the legislation of May 1, 1972 also provide for the issuing of instructions to the home authority or owner with regard to the implementation of legal regulations. Before such instructions are issued, however, the home authority or owner must be granted a hearing (Art. 10.1) and has the right to file a complaint.

German Federal Republic

When inspection reveals abuses, Par. 10 of the draft legislation* suggests this administrative procedure. With the help of the organization running the home the competent authority should counsel the home authority or owner to facilitate remedial action. Only when this has proved to be insufficient should the supervisory authority issue specific conditions to be met. In such an event it may impose conditions on privately-run homes which "are imperative in order to remedy prevailing conditions, or prevent a situation which is imminent, in which the well-being of residents is impaired or endangered; in order, also, to avoid any noticeable discrepancy between the services and facilities offered by the institution and the fees charged." Similar directives can be issued to public and voluntary welfare institutions.

The rationale to the draft explains: "Both of these means make it possible for the competent supervisory authority to proceed in such a manner as is best adapted to the circumstances of a particular case. A decision as to the setting of conditions or the issuance of directives to be complied with must be taken on the basis of what is deemed correct and conformable to the duty of the authority. The particular interests touched upon by such a decision must be carefully considered and the principles of commensurability observed."

This prudent wording is intended to ensure that the setting of conditions occurs only with a certain caution and after careful examination of the facts. It is similar to the notion which most of the implementation regulations express: "Consideration is to be shown for the interest of the owner or governing body." Obviously the standards for inspection should not be set too high. Apart from general legal considerations, the reasons for this lies in the shortage of places in homes which prohibits the establishment of requirements too difficult to meet for financial or other reasons. An additional factor may also be a certain caution on the part of public authorities in order to avoid reversal in subsequent court proceedings. In many cases it will be difficult for the authorities to decide whose interests are more deserving of protection—the justifiable economic interests of the owner or the social interests of the residents.

The implementation regulations of Schleswig-Holstein of June 3, 1969, listed as an example of the regulations in general, are similar to the provisions made in the Federal legislative draft, IV:

"Should inspection reveal that the owner or governing body has not met the requirements of the regulations, an attempt should first be made by means of explanation, to persuade him (it) to fulfill his (its) obligations. If this proves unsuccesssful, the following possibilities are open to the authorities:

"(a) The authorities can issue a written order to the owner demanding that the necessary remedial steps be taken, that is, that he refrain from the illegal acts in question in the future. As soon as the order is legally valid or provisionally executable, it may be enforced by the usual means (above all by financial sanctions and administrative intervention). This method is preferable as it offers the best chances for establishing a situation in conformity with the regulations.

**See Addendum, No. 10, p. 92.*

"(b) The owner may be prosecuted for offenses against the regulations if these offenses are more than minor.

"(c) Continued disregard of the regulations may justify the presumption of untrustworthiness and give rise to proceedings with a view to withdrawal of the commercial license in accord with Par. 35 of the Trades Regulations."

The Technical Instruction of the Department of Economic Affairs of the Free Hanseatic Town of Hamburg of January 21, 1969 discusses what measures should be taken when inspection reveals offenses against the law other than those against the Homes Regulations. These possibilities are listed (6. 306-6 314):

- –In the case of suspicion of a crime or offense, e.g., theft, embezzlement, fraud, usury, bodily injury, the local criminal police are to be involved.
- –In the case of suspicion of tax offenses, the tax authorities are to be informed.
- –In the case of suspicion of illegal activities in commercial competition, the Chamber of Commerce is to be notified.
- –Checks should be carried out that the rulings of the Trades Regulations on names and signatures in commercial correspondence are adhered to (Par. 15).

Moreover, should the inspection reveal that a particular employee is untrustworthy, the authority must then pursue its investigations as to the trustworthiness of the institution in general. In such a case the Hessian implementation regulations issued on October 7, 1969 (V15) require a check in the central criminal register. When an employee is found to be untrustworthy, the competent local municipal offices are to require the home's owner or governing body to remove him from employment there. Grounds for considering a person untrustworthy, such as punishable offenses, must be given. The employee, and the owner or governing body, have the legal right to contest this decision.

11. Sanctions

What powers do the state authorities have to ensure that violations of the law governing old people's institutions are punished?

This question also concerns offenses against the rules relating to licensing. It is relevant to include this type of offense at this point because the administrative and penal codes concerning offenses against the regulations on the opening and operation of homes cover both situations.

The most drastic step provided in the legislation of all countries is the withdrawal of a license or the closure of a home. A distinction should be made between two instances: when the withdrawal or closure is an administrative measure, or when either is the result of a judgment given in criminal proceedings.

An administrative decision in these matters is usually related to certain formal procedures which require that the person(s) concerned be granted a hearing beforehand and that grounds for the decision be given. In some countries, e.g., Holland, Belgium, and France, official bodies or special commissions must be consulted before any final decision is reached. As is always the case with a formal administrative decision, the person(s) concerned has (have) the right to appeal in accord with the laws of the respective country.

When the withdrawal of a license or the closure of a home result from criminal proceedings, the decision is usually part of a court judgment imposing penalties. Such fines are relatively unimportant when compared to the economic consequences following license withdrawal or home closure.

(a) License withdrawal or closure by administrative procedure.

German Federal Republic

A license must be withdrawn in those cases where it should not have been issued in the first place (Par. 12 in conjunction with Art. 5 (3) of the bill on Homes Legislation).

As previously mentioned, the following factors form part of the grounds for refusal to grant a license:

- –The applicant does not possess the trustworthiness required to operate an institution.
- –The physical, intellectual, and spiritual well-being of the residents is not guaranteed, or the minimal requirements for the home's premises or its director's qualifications are not met (Par. 3).
- –An examination of the conditions of residence contracts reveals a noticeable discrepancy between fees charged and services and benefits provided.

Cancellation of a license occurs under the same conditions as withdrawal. The difference between the two lies in the fact that the circumstances leading to cancellation may have arisen only after the license has been granted.

There are, however, other instances which justify cancellation (Par. 13.3):

- –If the character of the licensed institution has been altered or rooms other than those authorized for home operation are used.
- –If conditions imposed to rectify shortcomings are not fulfilled within the time specified (Par. 10 (2)).

–If persons who have been forbidden to work in a home are still employed (Par. 11).

–If offenses are committed against the regulations forbidding acceptance of gifts and donations (Par. 12 (1))*

Even those homes which do not require a license according to Par. 5 (1), i.e., the local authority and welfare organization homes, must be closed when they do not comply with the basic absolute prerequisites mentioned above.

In such a case the following formula is applied for technical, legal reasons: "The running of a home is to be prohibited." For those homes which do not require licensing there are certain instances which justify prohibition of their operation: if the authority fails to fulfill conditions imposed (Par. 14 (2) in conjunction with 10 (2)), or for infringements concerning the employment of unsuitable persons and the acceptance of donations (Par. 14 (2) in conjunction with 13 (3) 3 and 4).†

Belgium

In accord with Art. 2, Par. 2 of the July 12, 1966 legislation, the Minister of Public Health and the Family is empowered to withdraw a license provisionally or permanently. In accord also with Art. 7 of the same law, the Minister may close a home if it does not conform to the minimal norms required in Art. 3. In both cases the State Commission on Old People's Homes must be consulted first (Art. 4).

If the Minister intends to withdraw a license, he must inform the Commission and the person or legal body responsible for the home, citing to both the reasons for his proposed action. The latter group then has two weeks in which to submit written opposition to this measure. The documents are then transmitted to the Commission which, in turn, returns them to the Minister, informing him of its position on the matter (Art. 10).

In the case of a temporary withdrawal of a license, the length of the period of suspension, the conditions for its reissue, and the provisional steps taken with regard to the home must be specified (Art. 11).

When it is decided to close a home, the person or legal body responsible for its operation is informed of the Minister's resolution and the reasons motivating his action (Art. 12). There is a specified time during which he (it) may submit an opposing brief to the Commission. After this period the Commission reviews the case and reaches a decision. The Minister may confirm or revoke this decision. This final action and the reasons on which it is based are conveyed by registered letter to the home authority.

The legal recourse available to the person or body concerned is discussed neither in the legislation nor in the decree, but possibly is covered by relevant clauses of civil law.

Holland

The legislation of May 2, 1972, Art. 12 (1) states that the use of a home as such may be prohibited when there is:

–Failure to comply with regulations governing the freedom of residents, hygiene and medical care, safety, the number and qualifications of personnel, equipment and facilities of the building, and bookkeeping procedures (Art. 7).

–An unacceptable fee schedule, and failure to observe the implementation of regulations and other directives of the provincial Board of Deputies relating to these regulations (Arts. 8a and 9).

Before a decision is reached forbidding further use of the home, the mayor and the local council must be interviewed (Art. 12 (1)). The person or body concerned with the home has the right to a hearing (Art. 10 (1)). The preliminary resolution on the home is conveyed by registered letter and becomes effective from the 30th day. Within this period an appeal may be made. Until then the resolution is suspended unless the urgency of its implementation has been expressly emphasized (Art. 10 (3)).

France

Art. 210 of the law of December 24, 1973 empowers the Prefect to close a home if the health or moral or physical well-being of the residents are endangered or impaired by conditions there, the home's organization, or its administration, and if the persons responsible have taken no steps to remedy the situation even after having been notified to do so. Before issuing his decision the Prefect must consult the Hygiene Commission in his department (Art. 210 (2)). The closure of a home may be temporary or permanent, partial or total.

In urgent cases, or if the person or body responsible refuse to allow an inspection, the Prefect may order the home closed immediately without prior warning. This is a provisional measure on which the Hygiene Commission must be consulted within one month. Reopening of the home requires the express approval of the Prefect, a decision which must be given within three months. Should approval not be given, the Prefect's decision can be appealed to the Permanent Body of the High Council for Social Aid (Art. 211). When a home is closed, the Prefect must take steps to provide alternative accommodations for the displaced residents. If necessary, he may

**See Addendum, No. 11, p. 92.*

†*Ibid.*

suspend the closure and employ a temporary manager for a period of up to six months (212).

England

The National Assistance Act of 1948, Part IV, Art. 37 (4) states: "The registration authority may by order at any time cancel the registration of a person in respect to a home on any ground which would entitle them to refuse an application for registration of that person in respect to that home or on the ground that that person has been convicted of such an offense in respect to this home."

(b) Liability for offenses against regulations

Apart from the French legislation of December 24, 1971, the *Federal German* draft contains the most complete list of those offenses against the regulations which are punishable by law (Par. 15), whether committed with intent or by negligence (Par. 15 (2)):

- –Operation of a home without a license (Par. 15 (1) 1).
- –Operation of a home in defiance of a prohibition order (Par. 15 (1) 2).
- –An offense against the rule forbidding acceptance of donations in excess of the fees agreed upon; failure to repay loans, down payments, etc. (Par. 15 (1) 3).
- –An offense against stipulations in the individual states which require minimal standards for rooms, social areas, sanitary facilities, and the suitability of the director and personnel (Par. 15 (2) 1).
- –Failure to notify the authorities of the opening of a home, to give a correct or complete notification, or to give notice on time (Par. 15 (2) 2).
- –Failure to provide to the authorities the information required in Par. 8, involving situations where the authorities are denied entry to the home's premises or its accounts and business documents and are refused contact with residents or personnel (Par. 15 (2) 3).
- –Failure to comply, or to comply in due time, with conditions imposed or a directive issued (Par. 15 (2) 4).
- –The continued employment of a director or other personnel after they have been forbidden employment on grounds of unsuitability (Pars. 11 and 15 (2) 5).
- –Acceptance of, or proposals to accept, gifts or donations for services or assistance (contrary to regulations of Par. 12 (3)), on the part of directors or other personnel (Par. 15 (2) 6).

Belgium

The legislation of May 10, 1967 in conjunction with that of July 12, 1966, states that the following acts or omissions are punishable by law:

- –Operation of a home without a license (Art. 1 (1)).
- –Failure to mention the pertinent authorization in correspondence (Art. 1 (2)).
- –Operation of a home in defiance of a closure order (Art. 1 (3)).

Holland

These situations are punishable (legislation of May 2, 1972, Art. 27 ff. together with Arts. 6d, 6h, 6i, section 1; 8a, sections 2 and 3; Art. 9, sections 1 and 12):

- –The establishment or operation of a home without written clearance.
- –Acceptance into a home of an old person without obtaining the instructions or decision of the admissions commission beforehand.
- –Failure to comply with the fee regulations issued by the provincial Board of Deputies.
- –Failure to comply with directives of the provincial Board regarding implementation of legislation on old people's homes.

England

These offenses are punishable by law:

- –Operation of an unregistered home (1948 National Assistance Act, Art. 37 (1)).
- –Failure to comply with regulations governing the maximum number of residents in a home (40 1 a in conjunction with the National Assistance [Conduct of Homes] Regulations of 1962, Art. 2).
- –Failure to comply with regulations governing services and facilities in homes (40 1 b together with the above cited regulations, Arts. 4, 5).

France

Art. 213 of the December 21, 1971 legislation, together with Arts. 203-209 and, partially, Arts. 210 and 211, state that offenses against the following regulations are punishable:

- –Failure to present the required declaration of intent for the establishment of a home.
- –Failure to inform the authorities of substantial changes in the home.
- –Operation of a home despite a refusal to grant a license.
- –Defiance of the regulation which states that a person with previous convictions for crime or

certain offenses may not hold a position as a home authority, director, or employee.

–Offenses against the obligation to provide information or refusal to permit home inspection.

–Offenses against the obligation to register residents.

–Failure to implement directives of the Prefect with regard to the partial or total closure of a home.

–Reopening a home without authorization.

(c) Penalties for offenses

Relatively important differences in the penalties provided by law can be noted in different countries, caused by differing legal conceptions as well as the period of time when the legislation was passed.

West Germany

The draft legislation which represents the most recent formulation of any legal ruling provides for fines of up to 10,000 marks but no prison penalties (Par. 15 (3)).

Belgium

Art. 1 of the May 10, 1967 law and Art. 8 of the July 12, 1966 legislation provide for prison sentences of between eight days and three months, as well as fines in addition to, or in place of, such sentences, ranging from 26 to 2,000 Belgian francs. When a home remains open in defiance of a closure order, the penalty is one to six months imprisonment. Should the offender repeat the offense within two years after the first judgment has been given, the penalty or penalties may be doubled (July 12, 1966 law, Art. 8 (2)). The courts are empowered to prohibit the offender on a temporary or permanent basis from participating directly or indirectly in the operation of a home (a.a.o. Art. 8 (4)).

Holland

For offenses under Art. 27 the May 2, 1972 law provides fines of up to a maximum of 1,000 guilders. Contrary to Belgian laws, prison sentences and fines are obviously not cumulative as the law speaks of either a fine or a prison sentence.

For offenses against the obligation to provide information the maximum penalty is a fine of 500 guilders (Arts. 14 and 25). Should the offenses be repeated again within five years, the penalties are either a fine of a maximum of 5,000 guilders or up to six months imprisonment. This does not apply to offenses against the formal regulations, i.e., refusal to supply information or statistics (Art. 29). Of essential importance is the fact that the right to run a home or manage it, or even work in it, can be withdrawn (Art. 27).

The Dutch law also gives rulings on the legal responsibilities of a legal person. It provides for the prosecution of the legal person himself (Art. 31 (1)), those persons on whose authority or through whose illegal or negligent acts a punishable offense is committed (31 (1)), and the legal person as answerable for persons acting on his behalf, whether as employees or for other reasons (31 (2)). Legal persons are on the same legal footing as companies, corporations, and other associations and groups.

France

Art. 213 of the December 21, 1971 law provides for fines ranging from 500 to 10,000 francs, and/or prison sentences from ten days to two months. Here too the courts may withdraw, either permanently or temporarily, the right to operate or manage an old people's home (Art. 213 (2)). In the event of a second offense the penalties may be doubled. There is no mention of any particular interval between offenses. At the second offense the court must expressly make a decision relating to the withdrawal of the right to operate or manage a home (Art. 213, final section).

England

A fine of up to 50 pounds sterling is fixed for the operation of an unregistered home. In the event of a second offense–again there is no mention of a specific interval between offenses–the court may sentence the offender to up to three months imprisonment or a fine of up to 50 pounds sterling, or both (1948 National Assistance Act, Art. 37 (1)). According to Art. 37 (4), registration may be cancelled.

12. Exceptions to the Law and Regulations

In the *German Federal Republic* no exceptions to the licensing obligation are made in the legislative draft apart from those which apply to the local authorities and welfare organizations. On the other hand, the uniformly worded Homes Regulations of all the states allow divergence from the minimal legal requirements in these areas:

–If divergence is necessary in the public interest.

–If fulfillment of a particular requirement would entail an unreasonable burden and the divergence does not impair the interests of the residents (e.g., Rhineland-Pfalz regulations of July 25, 1969, Par. 9).

The implementation regulations explain this ruling: the concept of public interest is to be so interpreted that cases may arise where the public good requires the entry of persons into old people's homes even when no institutions are available which conform to the minimum legal requirements. In this case a temporary solution must be accepted to solve an emergency.

Divergence from a minimal requirement which represents an unreasonable burden does not include *every*

financial burden. Rather this exception must be examined according to particular circumstances, including the interests of the residents. Considerable importance is attached to the following: whether the home in question is already in existence and the additional costs would cause a considerable increase in fees for the present occupants, or whether the home is one which has been established after legislation has been passed.

Any divergence must be expressly approved by the authority responsible for supervision of the home. Such approval can be given only in those cases mentioned in the legislation, i.e., public interest and unreasonable burden. In many cases exceptions will be made only for a limited period (e.g., the Bavarian Implementation Regulations of October 1, 1968 D 1 and D 11, as well as other such regulations in the Federal states previously mentioned).

In *Belgium* exceptions from the general legal rulings are permitted for an interim period. Art. 9 of the September 8, 1966 ruling and Art. 2 of the May 10, 1967 legislation state that existing homes which do not meet the requirements of the law may, under certain circumstances, be granted a provisional license in order to enable them to adapt to requirements for fire safety, nursing and medical care, and the number of beds available. This interim period may not exceed three years after the effective date of the legislation.

Are exceptions permitted for homes already in existence when new legislation is approved?

The *Federal German* draft contains an exhaustive ruling for this case (Par. 21 (1)). Any person or body running a home when the legislation becomes effective must notify the authorities within three months or the license becomes invalid (Par. 21 (2)). Those homes which are required by law to have a license, but which are operating legitimately when the law becomes effective, are automatically considered to be licensed (Par. 21 (2)). The owner or home authority receives confirmation of authorization from the competent authority, but this confirmation must also designate the type of institution authorized and the rooms to be used.

The *Dutch* legislation governing old people's homes of May 2, 1972 contains no ruling on the question of homes already in existence. The requisite clearance cited in Art. 6.1 refers only to the establishment, construction, and assumption of responsibility for homes, and thus does not apply to existing ones.

Art. 3 of the *French* legislation of December 24, 1971 states that all homes already in existence are, as a rule, to be registered with the competent authority insofar as they do not automatically fall under control specified by law. The stipulations of this legislation concerning the operation, equipment and facilities, organization and administration of the home, and the regulations for personnel, management, and supervision are immediately applicable.

Art. 9 of the *Belgian* legislation of July 12, 1968 originally provided for the granting of a provisional license valid for 60 days for homes already in existence when the new law became effective. A normal licensing application was to be made within this period. As it was impossible to put this measure into effect, the ruling was amended by reference to Art. 2 of the legislation of May 10, 1967, providing for an extension of the temporary license for up to three years after the effective date of the legislation.

In *England* those homes already operating are subject to the registration obligation in the same way as newly established homes, and also to the related minimal requirements contained in Art. 37 (3) of the National Assistance Act and Art. 4 of the National Assistance Conduct of Homes Regulations of 1962.

Are exceptions made for changes which occur in the home after licensing?

In *West Germany's* legislative draft (Par. 6 (2)) the authorities must be notified of any change regarding the type of institution, the number of beds, the director or person in charge, and the transfer of the premises.* This is also true with regard to an intent to close the home, either in part or as a whole. In such a case notification must contain mention of the proposed arrangements for relocating the residents and for terminating their contracts fairly and equitably.

In *France* any intended changes which are a relatively significant divergence from specifications contained in the original declaration of intent must be reported to the competent authorities (Art. 203 of the December 24, 1972 law, together with Par. 12ff. of the October 23, 1972 decree).

This stipulation is completed by Art. 17 of this decree which states that the Prefect must be notified of any proposed changes affecting the management of the home and the number and category of residents two months before they are to become effective. Notification is also to be given of any changes concerning rooms and the financial conditions of the home. The Prefect must be informed in the course of the current month of any alterations of property or buildings, any changes in the legal basis of its utilization, or any modifications of the statutes of the home and home authority.

In *Holland* the only ruling on changes occurring after the granting of a license is given in Art. 6d 1 of the legislation of May 2, 1972 and merely refers to the necessity of obtaining a clearance certificate for alterations to the building, its expansion, or the assumption of responsibility for a home. This ruling does not apply to

**See Addendum, No. 6, p. 92.*

alterations or expansion carried out on the basis of general administrative regulations and within the amounts fixed by them (6d 2).

In *Belgium* no provision is made in the legislation for the case where changes occur during the licensing period or after it.

In *England* Art. 37 (6) of the 1948 National Assistance Act only relates to the situation where a person authorized by registration to run a home dies. In this case the widow, the executor, or another member of the family shall be authorized, even without being duly registered, to continue running the home for a maximum period of four weeks after the person's death or for a period specified by the registration authority.

SUPPLEMENTARY NOTE:

Supervision of Homes for the Elderly in Italy

In Italy private old people's homes numbering about 1,000 are subject to two types of control: those relating to sanitary conditions, and those relating to the functioning and activities of the institution.

Sanitary controls fall within the competence of the Ministry of Health as provided in the single text of the sanitary laws approved by Royal Decree of July 27, 1934, no. 1265, in which appear provisions and legal measures regulating the duties of officials attached to the health and sanitary services and the supervision of multiple activities of a health and sanitary nature.

Controls of the operation and activities of private old people's homes are covered in particular by Art. 2 of the Act of July 17, 1890, no. 6972 and amended by Art. 2 of the Royal Decree of December 30, 1923, no. 2841. This confers on the Ministry of the Interior, through its peripheral agents or prefectures, the responsibility for controlling private charity and welfare institutions providing shelter (and including old people's homes) and the power to order their closing for breach of public trust or ineffective operation.

The "right of control," according to Art. 4 of Regulations 1891, includes the power to inspect or examine the statutes drawn up by institutions, to revoke or repeal them, and to do anything else which may be necessary or advisable to prevent a breach of public trust. To this end administrative officers or representatives of the said institutions must communicate to the prefect of the province a copy of the certificate of incorporation and the program of proposed activities.

In addition, public old people's homes are subject to similar controls conducted by the Ministry of the Interior through the Prefecture according to Art. 44 of the said Act of 1890 covering control of public welfare and benevolent organizations, including public old people's homes. Such control is intended to encourage the observance of laws with regard to public welfare.

Public old people's homes are also subject to controls carried out by the provincial Committees of Public Welfare and Assistance. These are collegial bodies mainly composed of representatives of public organizations.

Indeed, Arts. 3 and 4 of the Act of March 22, 1945, no. 173 (amended by Art. 19 of the Act of August 19, 1954, no. 968) give these Committees powers of supervision with respect to public welfare and benevolent institutions covered under the Act of 1890. Within the framework of provisions mentioned above, the Ministry of the Interior–Directorate General of Public Assistance–has successively issued circulars relating to better control regarding the general directions to be followed in assistance to and control of old people's homes in the light of the latest criteria.[18]

XI. On Norms and Standards– Minimum Requirements

UNTIL NOW ONLY the formal aspects of supervision and control have been discussed. In this chapter we will consider the material aspects, that is, the norms and standards set down as minimum requirements for operation of a home. These material requirements concern the concrete aspects of technical, administrative, and medical problems, and rulings relevant to them form the basis for supervision and control. The findings of an inspection depend to a great extent on the degree to which a home adheres to these requirements.

The norms and standards are usually specified in numerous regulations, especially those relating to construction and safety. It is outside the framework of this report to list them all in detail. Consequently, only the basic outlines of these standard regulations are given here, classified systematically according to a home's essential functions: an open personal milieu for residents; building, rooms, sanitary and nursing facilities; residential safety; director and personnel; food and nutrition; medical care, nursing, and rehabilitation; social integration and activities.

The term "standards" should first be clarified. It can mean a level of performance desirable in a home often attained after years of planning and effort. It can signify norms which can and should be achieved here and now. In this sense it is generally synonymous with the minimal standards which the Federal German bill designates as "minimal requirements" (*Mindestanforderung*). This expression serves to ensure that the equipment and facilities of a home correspond to a minimum degree to the needs of older people for attention and care, and that the management and personnel of a home provide both attention and care proportionate to the nature of the home (rationale to Par. 3 of the draft). Where "standard" occurs in this chapter, it is used strictly in this sense of minimal requirement.

Before comparing these requirements in various European countries, the legal regulations in *England* will be examined briefly. They consist of a legal catalogue of minimal requirements which contain no specifications of a qualitative or quantitative nature. Under the terms of Art. 4 of the National Assistance (Conduct of Homes) Regulations of 1962, the director of a registered home for the aged, or his equivalent, is responsible for the following:

The managers of every home registered under section 37 of the Act as a disabled persons' home or old persons' home or as a residential home for mentally disordered persons shall:

- –Provide for each person received into the home such accommodations and space by day and night as is reasonable, with due regard to his or her age and sex and the nature and degree of any mental disorder or other illness or disability from which he or she may be suffering.
- –Provide for their use a sufficient number of wash basins and hot and cold water baths, a sufficient number of toilets and any necessary sluicing facilities.
- –Provide adequate and suitable furniture, bedding, curtains, and where necessary, equipment, screens, or floor covering in rooms occupied or used by residents.
- –Provide adequate light, heating, and ventilation in all parts of the home occupied or used by residents.
- –Keep all parts of the home in good structural repair, clean, and reasonably decorated.
- –Take adequate precautions against the risk of fire and accident with particular regard to the mental and physical condition of residents.
- –Provide sufficient and suitable kitchen equipment, crockery and cutlery, together with adequate facilities for the preparation and storage of food.
- –Supply adequate, suitable, and properly prepared food.
- –Arrange for the regular laundering of linen and clothing.
- –Employ by day and by night suitably qualified and competent staff in adequate numbers for the size of the home and the number and condition of residents.

1. Rights of Residents

In this area a distinction must be made between the general personal rights of a resident as a citizen of his country and the specific rights arising from life in a home.

The chief personal right is a guarantee of complete freedom with regard to philosophical, religious, and political convictions (*Belgium*: Royal Decree of March 22, 1968, I 1). Similarly, *Dutch* law provides for the right of an elderly person to lead his or her life according to his or her conception (legislation of May 2, 1972, Art. 7, 2).

The basic civil rights of the aged are governed in the constitutions of the different countries. To the extent that they are founded on the democratic principle, the constitutions guarantee protection of the dignity of the individual, his right to free expression of his opinions and to a hearing before the law, the inviolability of property, residence, and correspondence, and the freedom to join mutual interest groups.

These rights correspond to the fundamental legal convictions of a free society. Their protection and effective realization are therefore to be counted among the minimal requirements for operating a home even if they are not explicitly stated in the regulations.

One of the specific rights of the resident in a home is a clearly defined legal relationship between himself and the home authority or owner, primarily through contracts for residence and secondarily through the home's internal regulations. In many cases, for example, when the resident does not pay the fees himself, no individual contract is negotiated and the internal regulations of the home then form the basis of an agreement. This is usually an unsatisfactory solution for the resident; whatever the circumstances, there should always be a contract. A contract means more than a statement of financial and technical conditions. It is an expression of a partnership based on equality and contains clear delineation of the rights and obligations of both parties.

With regard to the internal home regulations which usually form part of a contract, the *Belgian* decree of March 22, 1968 (I 1) contains special stipulations. The contract must mention the legal status of the home (whether public, private, denominational, or otherwise), any special conditions for entry, the mutual rights and obligations of residents and the home's authority or owner, the place or authority to which complaints may be directed, and rules governing visiting and trips outside the home.

The Belgian directive emphasizes that the home regulations should be based on the principle that the resident be allowed as much freedom as is consistent with decency and order.

If residents have rights, they also have obligations. Their personal deportment and attitude must be in accord with the terms of their contracts and the internal regulations, and they must respect the demands implicit in institutional living. Their behavior and mode of dress should be adapted to their environment. One of their most important obligations is strict compliance with the home's safety regulations. All new residents should receive a copy of the entire body of regulations upon entry to the home.

The Belgian directive (I 2) requires that a special index card be kept for all residents entering the home, containing information on personal identity (name, birthplace, marital status, nationality), the name of the doctor treating them, the name and location of persons to be contacted in an emergency, and their religion or creed when they request this to be registered.

Participation on a democratic basis in the affairs of the home also forms part of the individual's rights as a resident. This involves the right to vote and run as a candidate in elections to the home's advisory council or special committees, as well as the right to obtain information on events occurring in the home or on any organizational or financial problems there.

Par. 4 of the *Federal German* bill establishes the principle that residents of homes covered by the bill are to be associated with all matters concerned with the internal functioning of the home which affect them, such as board, accommodations, and leisure activities.* The rationale to this part of the bill notes that the elderly have a moral right to participate in affairs which shape their existence, and this right itself creates a useful activity for them.

The form given to participation of residents is within the competence of the individual states to implement (Par. 4).† The basic regulations of Hesse in this regard are outlined here (Recommendations, December 10, 1972).

- –It is the task of a modern program of assistance to the aged to alleviate the difficulties of this period of their lives and to ensure the protection and development of their individual personalities. Participation in shaping their own existence is part of this concept and applies to residents in nursing homes as well.
- –Participation extends to such areas as board, accommodations, house rules, and social events.
- –Participation takes the form of a home advisory council elected by the residents, with the right to be consulted by the home management, to be kept informed and in turn to advise the management.

**See Addendum, No. 4, p. 91.*

†*Ibid., No. 3, p. 91.*

–The size of the council is as follows:

11-50 residents	3 members
51-250 residents	5 members
251-500 residents	7 members
over 500 residents	9 members

–For the purposes of this ruling employees are not considered as residents.

–The organization of elections is the responsibility of an election committee, and the management must provide this group with the required personal and material assistance.

–Voting is by secret ballot in envelopes.

–The ballot contains the names of those eligible and each resident's choice on it is to be marked with a cross.

–Sealed envelopes are collected in ballot boxes and a record of the election is filed.

–Length of office on the council is one year. When a vacancy occurs, the person with the next highest number of votes succeeds.

–From its members the council elects a chairman, secretary, and deputies for both offices. If it has only three members, the third member is a deputy.

–Resolutions are passed on the basis of a simple majority and a written record of the debate is to be kept.

–The council prepares an annual report on its activities for the residents.

Provision for the participation of residents is also to be found in legislation in other countries, e.g., *Scandinavian* lands and the *German Democratic Republic*.

For the reasons stated in the Federal German bill and in the Hesse recommendations these forms of cooperation and the sharing of responsibility are welcomed. From a purely psychological viewpoint they aid in developing the internal activity of a home, enabling its residents to feel that they are part of a community and are not merely "consumers." It is also in the interest of the home to activate the professional knowledge and skills of many residents. For the director it represents an important means by which he can learn many factors in the life of the home which were previously unknown or unfamiliar. It also enables him to influence the "public opinion" within the home. Many tasks, such as the organization and conduct of social events, can in large measure become the direct responsibility of the council.

But the realization of these goals can be impeded. For example, the success of this type of administrative autonomy depends largely on the understanding and cooperation of the home's director. If this is not present, council members tend to feel inhibited in their decision making. Another problem might be that there may not be enough active and alert residents to cope with this task. But despite these difficulties, the basic concept of resident participation is to be promoted.

Perhaps the largest problem associated with democracy in a home is the right of the residents to lodge a complaint in confidence and to obtain an objective inquiry and an impartial decision. Those well acquainted with the aged know that they do not easily make a decision to file a complaint. In many cases their prudence is well founded. It is therefore very important to set up independent, objective, and discreet complaint offices. The previously cited Belgian decree of March 22, 1968 expressly requires that the home regulations indicate the office at which complaints may be lodged. Such an office should not be under the auspices of nor have any direct association with the home's owner, authority, or parent organization. Usually some public office is best adapted to this role or, more particularly, an ombudsman such as exists in other areas of administration and social work. It is conceivable for the ombudsman to concern himself with the problems of the elderly outside the sphere of institutional assistance as well. When he does not feel competent to handle certain issues, he should be able to summon the services of a group of experts for consultation. (A supplementary note on the models of ombudsman activities in the United States is included at the end of this chapter.)[19]

More important than all forms of institutional assistance and protection for the aged are the atmosphere of the home, the individual's feeling of his place there, and the way in which he is treated and addressed. On these factors his personal feeling of well-being and self-confidence essentially depend.

2. Building and Rooms, Sanitary and Nursing Facilities

As has been previously mentioned, the requirements concerning the buildings and facilities of old people's institutions cannot be presented in detail here as they are specified by laws and regulations in various European countries. Rather it is intended to discuss and illustrate certain areas of primary importance to the life and functioning of a home: the size of a home and its location, accommodations facilities, the communal and domestic facilities, and the infirmary and certain technical facilities.

Before examining each separately it is necessary to discuss building standards in general, distinguishing among three categories of homes: relatively old constructions, those built since the Second World War, and those still in the planning stage.

Old Constructions. A large proportion of homes are housed in buildings erected before World War II. Even in the favorable conditions present in West Germany, 37%

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of all home constructions date from this period, and 12.9% were built between 1900 and 1920.[20]

In other countries the percentage of buildings erected before World War II could be substantially higher, and not a few predate the turn of the century. Obviously, the minimal requirements valid for modern homes cannot, or cannot yet, be applied to this category. One solution is to provide for exceptions, in view of the fact that modernization to make them conform to current requirements would impose a heavy financial burden on the home authorities or owners.

Many such cases come under the "unreasonable demands" provision which according to Par. 10 of the Homes Regulations of the Federal German states justifies divergence from minimal requirements. On the other hand, the implementation regulations (e.g., Berlin, October 3, 1967) point out that a minimal requirement which can only be met at substantial cost does not in itself constitute a case of unreasonable demand. However, consideration must be given to whether the financial outlay incurred is in reasonable proportion to the purpose intended and whether this expense can be reasonably demanded of the owner. At all times, of course, the interests of the residents must be considered and safeguarded.

A further justifiable exception would be where the public interest was at stake. Such would be true when there are not sufficient institutions available and in compliance with the minimal requirements to meet the demand and the result is an emergency. Even here, the interests of those to be accommodated must not be ignored (e.g., Bremen implementation guidelines to the Homes Regulations of April 30, 1968 D I).

Because of the shortage of places in homes, buildings which do not conform to current standards will be tolerated for some time. But if at the end of a specified period they have not undergone the required modernization, they will not be able to expect a renewal of their license. When expedient, they can be granted public loans or subsidies for alterations and modernization (e.g., Hesse guidelines for the granting of subsidies for the renovation and modernization of old people's homes, August 27, 1962).

In *Belgium* also the Royal Decree of May 2, 1972, Art. 1 (2), states that homes which qualify for state subsidies for construction and modernization must be of a welfare character.

Homes Built After World War II. For these homes the present minimal requirements apply.

Homes in the Planning Stage. For these the construction specifications are more exacting than current minimal requirements. Many countries, e.g., France, Belgium, and West Germany, have prepared special regulations, particularly in those cases where state subsidies are involved. These regulations, in turn, will influence any future improvement of associated standards for old people's homes.[21]

Let us now consider specific questions with regard to certain features of the buildings which house homes for the aged.

(a) Size and site of a home

There are various opinions on the optimal size for a home, all based on such factors as the well-being of residents, the current demand for places, and the economic and management viability of the home.

It is often held that a small home offers the best setting for the aged because it provides a family atmosphere. However, the majority opinion today considers that a home with 100 to 150 beds is better, offering the right conditions for a lively social and cultural life and for a wider variety of personal contacts. This type of home also gives the director the opportunity to know residents better on an individual basis, to gain an insight into their cares and concerns, and to provide advice and counsel.

A home with approximately 100 places is perhaps the ideal size. In accord with this principle, the Hesse guidelines on subsidies previously mentioned provide for homes of not more than 100 places. This principle is not applicable, however, to private homes because these are usually much smaller.

In the *German Democratic Republic* the after-work homes must not take more than 200 residents, even though larger homes may be more economical.[22]

In *England* the Department of Health and Social Security considers the optimal size to be 50 to 60 places, mainly because it is then possible to place a matron as home manager.[23]

The location site for a home is discussed with the greatest length in *Federal Germany* where guidelines issued by the Federal Ministry for Town Planning and Housing on December 30, 1971, state that: "Places of residence for old people (i.e., service flats, homes, and nursing homes) within the framework of modern urbanization should be protected from noise as far as possible and be situated in the neighborhood of the residents' previous locality.

"As far as possible, concentration of large numbers of the elderly in large service flat complexes or large homes should be avoided. . . . Nearby shopping facilities for everyday needs and local transportation within easy, safe reach are desirable. The grounds should have garden and seating facilities except in cases where there are public parks in the neighborhood. Sites on a slope should be avoided. A beautiful view is not necessarily a deciding factor."

It is generally held in deciding the location of a home that residents should be able to maintain family ties, to keep in touch with friends and acquaintances, and to continue to take part in public affairs in general. This consideration should take precedence over the notion of a contemplative old age in peaceful rural surroundings. The official policy in *France* is similar (see Norms for Old Age Pensioners' Homes, p. 27, Ministry of Public Health and Population).

(b) Domestic accommodations and nursing facilities

These *French* norms (p. 25 ff.) distinguish seven different sections in homes corresponding to these functional areas: entry into the home and communal life, accommodations, health, board and personnel, laundry, auxiliary rooms, and personnel accommodations.

The planning recommendations (1 c) contained in the guidelines issued by the *Federal German* Ministry of Town Planning and Housing follow a different classification principle, providing for these constructional divisions: resident accommodations; communal rooms, such as dining areas, social areas, promenades, tea rooms, laundry and drying facilities, bathrooms, therapy rooms, store rooms, etc.; rooms for use by personnel, such as social areas or personal accommodations.

With regard to the minimal size of accommodations, local rulings in the various countries reveal certain differences. Thus in the Homes Regulations of the *Federal German* states these dimensions are specified:

A single room in an old people's home or geriatric nursing home must measure at least 12 square meters. In a room containing two or more beds, the space allotted to each person must be equal to at least nine square meters, and in a nursing home at least eight square meters (e.g., Saarland, Homes Regulations of April 1, 1969, Par. 2).

In *Belgium* a minimal surface area of at least 11 square meters must be calculated for each resident; this amount, however, includes his share of surface area in communal rooms (directive of March 22, 1968, II 17).

For new constructions in *France* room dimensions are specified as follows (Norms, 5): (in square meters)

Single Room	Room with Two Beds	Room with Three Beds
13	20	28
15	22	30

It is assumed that in new constructions each room has its own washing facilities and, as far as possible, its own toilet.

The planning recommendations of the *Federal German* Ministry for Town Planning and Housing give these specifications for the allotment of space and facilities (III 2): the individual accommodations unit must contain at least an entrance hall, a bed-sitting room, washing and toilet room, and if possible, a balcony.

The entrance hall must not measure less than 1.25 square meters. The bed-sitting room must have a surface area of at least 16 square meters. When the living room is separated from the bedroom or sleeping cubicle, it must have a surface area of at least 16 square meters.

The unit must in all cases have a wash basin and toilet. Further provision of a shower unit or bathtub suitable for the aged is desirable.

When the unit must accommodate two people, the living room must always be separated from the sleeping quarters. The living room must have a minimum surface area of 18 square meters.

In accord with the modern concept of safeguarding the individual's independence, a person wishing to live in a single room should be able to do so. However, there are still many homes where such a goal is not, or is only partially, attainable.

In *Belgium* the directive of March 22, 1968 (B 13) advances the principle that every resident should have a single room, especially one whose health requires tranquillity.

The *French* norms distinguish, in purpose and function, among single, two-bed, and three-bed rooms. Those with two beds are generally for couples. Those with three should be set up only to a limited extent where required by local conditions. It follows from this allocations formula that single persons should be accommodated in single rooms unless there are contrary reasons.

In the 1962 Hessian guidelines for the layout, construction, and equipment of old people's homes, it is stated that at least half the rooms should be singles. Considerable time has elapsed since this principle was formulated, and a 1970 investigation of the distribution of rooms and beds in homes in *Federal Germany* revealed these figures: 72% were singles, 23% had two beds, and 5% had three. Of the 181,792 persons residing in homes, 103,271 were in singles, 32,529 in rooms with two beds, 4,877 in those with three beds, and 1,665 in rooms with four or more beds.[24]

Almost 60% then resided in single rooms. This relatively high percentage is in large measure due to the fact that not less than 63% of all homes in *Federal Germany* date from the post-war years.

Many old people's homes possess infirmaries usually equipped for simple medical care and designed to enable ill residents to receive nursing attention in familiar surroundings, avoiding an unnecessary transfer to a hospital or nursing home. The term "in need of medical care" according to a definition of the VSA (Swiss

Association of Homes and Institutions) denotes a situation where an old person is constantly in need of the help of others to meet his fundamental needs. A person in this situation may be wholly or partially bedridden.

The number of old people residing in homes in *Federal Germany* and in need of medical care are 21,580 out of a total resident population of 181,792.[25]

The Hessian guidelines of August 27, 1962 (Principles, no. 9) specify these norms for medical facilities: "In future homes for old people which have a capacity of more than 140 places, there is to be a special sick-bay, with appropriate modern facilities to care for old persons usually or even constantly bedridden or otherwise in need of medical attention. The ratio of places for residents in good health to those in need of medical care should be at least 5:1 where possible, 4:1."

In *France* there is a reverse trend, seeking to avoid the establishment of infirmaries in old people's homes. Circular 1575 of September 24, 1971, p. 9, states: "It should again be mentioned that it is not the role of aged pensioners' homes to serve as hospitals for the sick. Indeed, these homes have neither the personnel nor the technical facilities necessary for providing the proper medical care for old people who are seriously ill."

In new homes the infirmary should serve the needs of the visiting doctor and not contain more than two to four beds intended for the medical supervision of residents suffering from acute but not chronic illnesses.

With regard to residents formerly in good health, but whose condition has deteriorated, any deliberations tending to reinforce the medical facilities of homes should be viewed with great caution. Circular 1575 notes that only in exceptional cases should a home assume the characteristics of a geriatric nursing home, and then only when the number of rooms and personnel makes this possible. Such an adaptation would of course require the reclassification of the home. As a general rule, old people's homes should retain their specific character and those persons whose health demands it should be transferred to appropriate medical institutions.

Directives in some countries, such as *Federal Germany* (e.g., Hamburg Homes Regulations of October 29, 1968, Par. 2) and *Belgium* (Directive of March 22, 1968, II B 13), specify that isolation rooms be provided, and often homes are required to set aside special rooms where medical examinations and treatment can be provided. The elevator which is obligatory in all homes of more than one story should also be equipped to transport ill persons.

In addition to private accommodations and facilities for ill residents, social or communal rooms are essential for creating a home atmosphere in an institution for the aged. Dining areas, in addition to their purely technical function, are to be counted among the communal rooms of a home. It is debated whether it is preferable for residents to dine together in one large dining room or to eat in smaller rooms on each floor. The advantage of the large dining area for all residents is that it gives them the opportunity to meet each other, provided, of course, they are not required for reasons of health to eat in their own rooms or in the infirmary.

It is also desirable for the director and the leading personnel to share at least one daily meal with the residents. If the large majority of the residents are assembled in one large dining area, the director and staff can then form a daily idea of the appearance, health, and activity of individual residents and talk to several after the meal. The director can also use this occasion to address them as a group for information sharing purposes. A large dining area can also be converted to accommodate lectures and artistic and cultural events.

On the other hand, smaller dining rooms, usually on each floor of the home, enable residents to gather on a more intimate scale. The slightly institutional character which always clings to a home can be minimized in this way. For this reason the Recommendations of the German Cities Associations on Assistance to Old People (p. 19) favor the use of smaller dining areas.

The *French* norms (p. 13) state that a home should provide as many dining room places as it has residents, but that individual rooms should cater to a maximum of 40. They also envision the possibility that adjacent social areas can be employed for events in which old people from the surrounding neighborhood can participate under certain circumstances (3.152). The size of the dining room is usually calculated on the basis of a set amount of space allotted to each user. In the French norms (p. 32) the area is 1.35 square meters. By comparison, in *Israel* a minimum area of 1.50 square meters is required (March 30, 1966 regulations concerning inspection of homes, no. 7).

In *Belgium*, as has already been mentioned, the March 22, 1968 directive (B 17) provides for a total surface area of 11 square meters per resident, including all accommodations and communal areas. This amount of space would seem to be somewhat below the norms found in other countries.

Conditions in other communal rooms can vary greatly according to the character of the particular home, its date of construction, its financial status, and its functions. In this regard the United States and Scandinavian countries have accomplished much. Standards in other countries are usually less demanding.

Official requirements for communal rooms include primarily:

Every floor must have a lounge or social room, provided if possible with a television set (this regulation applies also to nursing homes and infirmaries in homes).

There should be a large room usually on the ground floor for group events and entertainments, as well as one or more smaller rooms for get-togethers and meetings of smaller groups, the home's advisory council and its committees, etc. An area should be set aside for use as a reading room and filled with newspapers and magazines. There should be a waiting room in front of the large dining area and workshops for occupational therapy.

Facilities should be available for making snacks and hot drinks. Each unit should cater to 20 to 25 people, be located on each floor, and be equipped with refrigerators. These areas give women residents the chance to practice their cooking skills. For safety reasons it is also better to have residents make warm drinks in a kitchen than to distribute electric cookers to individual rooms, increasing the danger of fire.

The installation of a bar or cafe has proved to be a great success in many homes. Here residents can also entertain guests.

More far-reaching communal room facilities beyond those required by regulations are described in Chapter XIV on homes in Scandinavia.

With regard to sanitary installations, we must consider provisions for bathrooms, toilets, wash basins, lighting, and heating.

Concerning bathrooms, there are two main questions: what should be the ratio of residents to a bathroom, and which system is preferable, the one which has bathrooms on different floors or the other with one central installation?

Ratio of residents to a bathroom. In *Belgium* (Decree of March 22, 1968, II B II) there should be one bath, hip bath, or shower for a maximum of 20 persons, with every resident required to take a bath at least once a week. The management of a home should take care that no resident annoy his fellows by a lack of cleanliness or bodily hygiene (12).

In *France* (Norms, p. 39) there should be one bathroom for each accommodation unit, but also for a maximum of 20 persons. Facilities here must consider the possible limited mobility of certain residents, and appropriate assistance be rendered. The bathrooms are to be 6 by 8 square meters.

In *Federal Germany* the Homes Regulations in various states require at least one bathtub or shower for each group of up to 20 places in a home (e.g., Hamburg Homes Regulations of October 29, 1968, Par. 4). On the other hand, the Recommendations of the German Cities Association on Assistance to Old People (p. 27) propose a ratio of one bathtub for every group of 12 to 15 residents in new homes. Where additional shower facilities are planned, a ratio of one bathtub for 15 to 20 persons is sufficient.

The planning recommendations of the Federal German Ministry for Town Planning and Housing (III 2) are even more far-reaching. They favor providing each accommodation unit with its own bath facilities in new homes.

Bathroom installation system, centralized or dispersed. With the exception of Israel where it is required that residents be able to reach bath facilities without climbing any stairs, there are no legal regulations governing a bathroom installation system should it be centralized or dispersed? The German Recommendations just mentioned (p. 20) debate the pros and cons of both solutions without favoring either. They note that centralized facilities are cheaper and make bath-days require less time of personnel. These facilities are also better for medicinal baths. But bathrooms on various floors make it possible to meet the needs and preferences of individual persons, and lessen the risk of their catching cold while walking to the bathroom. This setup also facilitates the bathing of residents in need of assistance.

It is apparent that from the standpoint of the organization of a home, centralized bath facilities are more rational and from the standpoint of the residents having bathrooms on individual floors is preferable. Generally speaking, the well-being of the residents should be the deciding factor in choosing a system for bathroom installation.

Toilets. Whereas the ratio of the number of persons per bathroom was the same in all cases quoted above, 20:1, the ratio with regard to toilets is different.

The *Belgian* directive of March 22, 1968 (II B 6) requires a ratio of 1:12 with a minimum of two toilets.

In *Federal Germany* the Homes Regulations of the various states (e.g., Saarland, Par. 4, April 1, 1969) state: "Old people's homes and nursing homes must have at least one toilet on each floor for up to eight persons and for every further group of up to eight persons on that floor, there must be an additional toilet."

In *Israel* (Regulations concerning the inspection of homes, March 30, 1966, no. 10 a-g) the required ratio is 6:1, with separation of the sexes where possible. The toilets should also contain wash basins and be placed near to accommodations and communal rooms. Residents should be able to reach them without climbing stairs.

The standard regulations for new homes often require that each room has its own toilet. The Recommendations of the German Cities Association for Assistance to Old People (p. 20) argue thus: "The medical fact that old people have much greater need for toilet facilities both day and night, coupled with personal considerations, has lead to the obvious conclusion that a toilet in each room is to be regarded as absolutely indispensable."

Where each room does not have its own toilet, toilets should be provided for both sexes, with one provided for every group of six persons. The planning recommendations of the *Federal German* Ministry for Town Planning and Housing require that every newly constructed place in a home be provided with a toilet. This is also true in the *French* Norms (p. 35, nos. 3.2.2.1). Here the minimal requirement is that two rooms share a toilet placed between them and that each room offer direct access to it.

Wash basins. All standard regulations require a wash basin in each bedroom. The *Belgian* directive of March 22, 1968 (V 7) requires the installation of at least one per four persons. *Israel* requires one for every two older persons (Regulations concerning inspection of homes, March 30, 1966, no. 10b). Usually the provision of hot and cold water is expressly required, as in *France* (Norms, p. 66, no. 4.6) and *Israel* (no. 10g). The Homes Regulations in the *Federal German* states (e.g., Saarland, April 1, 1969, Par. 4) do not specify the ratio of persons per wash basin, but do require the provision of hot and cold water. On the other hand, the *Belgian* directive (V 7) requires running water but not hot water.

In general, the installation of central heating for homes already in existence is not required by the standard regulations, with the exception of *Israel* (no. 6g). In most cases the legislation merely specifies minimal temperatures which must be met. For new homes central heating and central water heating facilities are required (see Hesse Guidelines of August 27, 1962, Basic Principles, No. 3). In *Federal Germany* the prescribed minimum temperature is usually 22° C. (Rhineland-Pfalz Homes Regulations of July 25, 1969, together with the implementation regulations of December 2, 1970, B II). In *Belgium* (March 22, 1968 directive, II B 3) it is also specified as 22° C. for personal and social rooms. In all other rooms to which the residents have access it is 18° C., but lighting and heating must be guaranteed both day and night. In the *French* Norms (p. 65) the differences in temperature are more noticeable. In rooms regularly used by old people, such as private rooms, social rooms, dining rooms, and rooms used for medical treatment, nursing care, and rehabilitation, the regulation temperature is 21° C. In bath and shower rooms it is 24° C., and in corridors and other rooms 19° C. Rooms used for medical examinations, nursing, and rehabilitation should be provided with additional heating facilities for raising the temperature to 24° C. if necessary.

3. Safety Regulations

Safety measures to protect residents must cover disasters such as fire or floods and lesser risks such as accidents involving personal injury.

(a) Precautions Against Disasters

It is a well-known fact that the risk of fire in homes for the aged is especially great. The number of fire outbreaks is higher for them than for other institutions. Often it is the older person who causes fires through thoughtlessness, carelessness, or diminished mental faculties. But in many homes the state of the building does not offer sufficient resistance to the spread of fire. Fire also is dangerous in homes for the aged because residents are often limited in their ability to evacuate the home quickly due to age, infirmity, or illness.

Safety in the event of fire depends on five main factors:

- –the layout of the building and the materials used in its construction: in this connection the provision of a sufficient number of exits and emergency exits, as well as the isolation of rooms with a high fire risk from the rest of the building, are of essential importance.
- –conditions inside the building: these include precautions taken when installing or adjusting heating and electrical systems, the use of fireproof materials, and the speedy disposal of garbage.
- –the responsibilities of personnel and residents: both must be instructed on action to take in the event of fire. A major preventive rule is to avoid careless smoking habits, which have been found to be the cause of one in four such outbreaks of fire in these homes in the United States.
- –adequate facilities for detection and fighting of fires: these include the installation of systems to detect fires quickly, sound the alarm, and provide adequate extinguishers in different parts of the home. In some states in the United States, sprinkler systems are required, but in Europe they are not obligatory.
- –precise arrangements for evacuation: personnel must be familiar with these procedures and be drilled in them to help avoid panic in an emergency and to enable them to make appropriate, speedy decisions.

Whereas the general fire regulations are valid for old people's homes in all countries, some have issued special regulations for these institutions. For example: *Berlin*, Implementation Regulations for Municipal Old People's Homes, Service Flats, and Institutions for the Homeless, July 12, 1971. *Belgium*: Appendix to the Royal Directive of June 16, 1967 specifying obligatory safety norms for rest homes for the aged. *England*: Home Office Fire Department, fire prevention, note no. 2.

The *Belgian* regulations impose no particular obligations on residents with regard to fire prevention or the attitude to adopt in case of an outbreak of fire. But the *Berlin* regulations consider this in detail (III 10). "The residents have an obligation to duly respect and uphold the measures taken in the interests of their safety, e.g., the rule on no smoking in bed. Any shortcomings or possible sources of danger such as fire, smell of fire or gas, damaged gas and electrical fittings must be reported immediately to the management." Residents are also obliged to respect the fire regulations of which they have a copy (V). Each resident is informed personally of these regulations which include the addresses of the fire service, director, porter, doctor, and local government offices as well as instructions on behavior in the event of fire, e.g., under no circumstances must residents return to a burning room to save documents or valuable objects.

Experience has shown that electrical appliances in residents' rooms are a constant source of fire danger. The regulations (III 6) state that appliances such as cookers, irons, electric blankets, immersion water heaters, and radio and television sets must meet the requirements of the Federal German Association of Electro-Technicians (VDE) and may be used only with the approval of the home management. Electric irons must be provided with a fireproof rest.

According to these Berlin regulations, personnel are required to respect the fire regulations and to see that any shortcomings or possible sources of danger are removed once reported or determined. They must also instruct residents accordingly (III 9). Part of this instruction is to train more active residents in the handling of fire extinguishers, although this point is not expressly mentioned in the regulations.

The *Belgian* directive noted previously discussed in detail the instructions and functions of personnel in case of a disaster. All must be constantly on guard against fire danger and be instructed accordingly (XIII 13,1). A certain number of employees among the permanent personnel should be trained in fire fighting and be instructed in the use of extinguishers. Equally they should be trained to provide assistance in general (13,2). The director is responsible for the permanent instruction of personnel and their training in fire fighting (13,3).

Written instructions on the duties of personnel in the case of fire should be posted where they can be easily seen and should cover these points: informing the fire brigade, immediate measures to be taken with regard to residents and other personnel, and methods for activating the home's alarm system and procedures for assistance (13,3). Clear instructions for the use of fire fighting equipment must be posted in the immediate vicinity of the apparatus.

(b) Protection Against Accidents

Investigations have revealed that by far the greatest number of accidents are caused by falls causing bone fractures, especially to the leg, and other injuries. An investigation conducted in the United States revealed that out of 385 accidents, 93% were caused by falls. Such falls occur mainly by slipping or stumbling on floors, sidewalks, steps, and in bathtubs, and by falling out of bed, off a chair, near furniture, or out of a window.

Experience has shown the following preventive measures to be useful: removal of all slip rugs, use of non-slip floorwax, practical lighting at night between the bed and the toilet, the removal of all objects and electrical cables from the floor, practical foot wear, and instructions to personnel to wipe up immediately anything spilt on the floor.

Certain regulations exist in the legislation of different countries with regard to prevention of accidents in homes for the aged. Section 4b of the *English* National Assistance (Conduct of Homes) Regulations of 1962 contains a generalized basic requirement in a characteristic English form: "Take adequate precautions against the risk of fire and accident, having regard in particular to the mental and physical condition of such persons received here."

In *Belgium* the Royal Directive of March 22, 1968 notes: every toilet must be equipped with hand supports (II B 6). Care must be taken in showers so that the water jet is not directed straight onto the head of the user and that in bathtubs and showers the in- and outflowing water provokes no accidents (II B 11). Windows must be fitted to avoid any risk of accidents. Corridors and stairways must be sufficiently wide and fitted with ramps or hand supports (V 9). Heating, ventilation, and lighting must be provided day and night in all rooms (II B 4).

In *France* the declaration of intent to open a home must be accompanied by a plan outlining the proposed safety measures. What areas these measures should cover is not specified (Decree of October 23, 1973, 15 I 3, together with the legislation of December 24, 1971). If the Prefect considers the proposed measures to be insufficient or if he has ascertained that they do not meet the minimal requirements, he may lodge an objection to the opening of the home within the specified two month period.

According to the terms of the *Dutch* legislation (May 2, 1972) it is the responsibility of the provincial Board of Deputies to issue the more detailed administrative regulations for homes (7.1). In this context the Board is obliged to develop safety regulations for homes (7.2.c).

In the *West German* legislative draft, safety measures are one of the points to be handled by individual state

governments (Par. 3).* In this context it is of interest to examine the measures taken in the Homes Regulations of the states. With few variations these requirements are issued:

Rooms in which nursing cases are accommodated must be equipped with a call system which can be operated from every bed (e.g., Lower Saxony, October 3, 1968, Par. 6). Some states require that call systems be installed in bathrooms and be able to be operated from the tub (e.g., Baden-Wuertemberg, October 25, 1970, Par. 7). If the mental faculties of the occupant of a room make use of the system impossible, it should be possible to switch off the system (e.g., Schleswig-Holstein, June 3, 1969, B III).

Most regulations stipulate that a handrail must be provided on both sides of a stairway and on one side of corridors and landings (e.g., Saarland, April 1, 1969, Par. 3 (1)).

In Baden-Wuertemberg a minimal width of 1.5 meters is laid down for corridors and stairways. The height of the steps must not exceed 16 centimeters and their width not more than 28 cms. (regulations of February 25, 1970, Par. 3 (2)).

Floors must have sufficient lighting as well as corridors (e.g., Baden-Wuertemberg, Par. 3 (2)). The Berlin Senate requires that central corridors have direct lighting at intervals of 25 meters (regulations of October 3, 1967, I 3).

In all states floors must be non-slip, and in living rooms, bedrooms, and social rooms be adequately insulated against cold (e.g., Baden-Wuertemberg, Par. 3 (3)).

4. The Director and Home Personnel

Although legislation in many countries contains rulings related to the position of home director, most of these references are negative in that they merely establish in what cases a person may be unfit for this position. Generally there are no references to qualifications for future directors. Thus in most countries it is possible for any person to manage a home provided there are no grounds for objection such as an unfavorable reputation or prior criminal conviction. No consideration is given to preliminary training for this position. The reason for this is that the development of training facilities for persons involved in aid to the elderly has not kept pace with the rapid growth of institutional forms of help. As a result, there is almost everywhere a lack of qualified personnel at all levels. This is why European legislation and implementation regulations have until now been limited to negative criteria and not covered training and prior experience in the field. Doubtless this situation will change in time, but while it lasts it remains extremely unsatisfactory. There is no justification for allowing qualifications for home directors to be any less than those for similar positions of responsibility in other social and cultural institutions.

In *Belgium* Art. IV (3) of the March 22, 1968 directive states that the person responsible for the institution must provide character references for himself and every member of his staff. Approval of employment can be refused or withdrawn if the person has a prior conviction in Belgium or abroad for designated offenses, unless the legal penalty was suspended and no new offenses were committed during the probationary period. With regard to suitability, Section IV, No. 1 states generally that personnel must be able to provide residents with the required care and attention.

In *England* Par. 4 of the National Assistance (Conduct of Homes) Regulations of 1965 lists a director's obligations. Part of them are that he must employ both day and night a sufficient number of adequately qualified and capable personnel to meet the needs of the size of the home and the number and condition of its residents. If the management of a home is in the hands of a person not suited to the task because of age or other reasons, registration of a home can be refused or withdrawn (Act of 1948, Art. 37. 3a).

In *Holland* the qualifications of the director and personnel are subject to the rulings given in the implementation regulations of each province (Art. 7.2.d of the May 2, 1972 legislation).

In *France* the home director is mentioned in the legislation of December 24, 1971 and in the implementation decree of December 23, 1972. Art. 203, No. 2 of the legislation requires that the declaration of intent must contain the names of the proposed administrator, director, and where applicable, the domestic manager. According to Art. 206, no person convicted of a crime or of any offense specified in Art. 15 of the electoral code may run or manage a home. The decree of October 23, 1971 requires the director to present a birth certificate, a declaration from the central criminal register, a health certificate from a public health officer, previous address, occupations during the previous ten years, and where applicable, titles and qualifications (Art. 15 (6) together with (2)).

When a change in the home management is planned, the Prefect must be informed two months prior. If he raises no objection within this time, approval of the appointment of the new director is considered to have been given. These regulations enable the authorities to examine closely the morality of the director and the work performed during the previous ten years. Even here, however, there are no stipulations which make the

*See Addendum, No. 3, p. 91.

appointment of the director subject to specific training and experience.

In *Federal Germany*, according to Par. 3, no. 2 of the draft bill, the state governments and the authorities designated by them can issue directives specifying the minimal requirements for the suitability of the director and personnel, as well as the number of personnel to be employed.*

The rationale to Par. 3 stresses that the term "suitability" encompasses both professional competence and personal reliability. This concept corresponds to the present ruling contained in the Homes Regulations and Implementation Regulations of the different states in regard to private homes, and will be discussed in more detail in the section of this chapter relating to employees.

In Berlin the director is expressly mentioned in the regulations. In order to manage a home he must obtain the permission of the competent local governmental offices. This permission is to be refused if the facts justify the supposition that he is not suited to this task (Senate directive of October 6, 1967, Par. 9 (1)).

"A home director's personality must in all respects offer the guarantee that he is fitted to manage a home. In assessing his suitability, special consideration will be given to the length of his professional experience and his attitude and behavior in his relations with residents and personnel." In principle, permission to assume the appointment of home director is not limited to a fixed period of validity. However, permission is to be withdrawn or cancelled if the facts existing at the time it was granted or occurring at a later time justify the supposition that he is not fitted to manage a home. (Senate directive of October 10, 1967, a.a. 9 (2).)

(a) Functions and Training of the Home Director

Because of the important role played by the director in the care of residents, as well as the atmosphere and economic viability of the home, remarks on issues closely related to his functions are appropriate at this point.

Job description of the director. A director's duties can take many forms varying according to the nature and size of the home. What follows applies generally to larger homes with more than 80 places.

His responsibilities include residential and personnel relationships, general administrative duties, supervision of medical, social, and cultural affairs, public relations, and liaison with the home authority or owner. Whether he performs them all personally or delegates them and merely acts in a supervisory capacity matters little; they remain the essential duties for which he is responsible.

Such a varied and often difficult field of duties makes great demands on the ability and character of the director and requires experience, authority, integrity, ability to work with people, sympathy, understanding, initiative, energy, and the ability to delegate and coordinate. In a Swiss investigation conducted in 1972 by Sister Wiborada Elsener, 154 home directors – 87 men and 67 women – were asked what character traits they considered to be decisive, or at least, important for a successful director. Their answers were given as below in the order of frequency:[26]

DECISIVE	NOT DECISIVE BUT IMPORTANT
ability to mix	initiative
patience	intelligence
consistency	preciseness
frankness	generosity
health	paternal/maternal feeling
kindness	enthusiasm
openness	naturalness
cheerfulness	religiousness

Not all these qualities can be attained by training and practical experience. The ability to manage a home is also an art. Success depends on a synthesis of training, experience, character, and intuition.

Organizational structure of home management. The organization of a home depends on its size and the nature of its authority or owner. In a small private home most of the duties will be carried out by the owner or by the owner and his wife. The following considerations apply to the situation in larger homes where the authority or owner is not identical with the person of the director.

There are two preliminary questions: is it preferable to have a man or woman as director? is it more expedient to have a married couple in charge of the home?

Neither question can be answered on a theoretical basis; both solutions are possible. Their success depends on the character and capability of those involved. In some cases it is beneficial to have responsibilities and duties shared between a man and his wife. In other cases it is preferable for personal and professional reasons to choose a more neutral form of management. One cannot establish a definite set of rules.

Sister Elsener's investigation revealed that of the 154 Swiss directors questioned, not less than 76, approximately half, managed homes as husband and wife, and 52 of them with a joint salary. She had certain reservations about this form of cooperation because it tended to limit the individual's personal freedom of

*See Addendum, No. 3, p. 91; No. 13, p. 93.

movement and to induce tensions and problems from such close working conditions. It was her opinion that it is desirable to improve the legal and financial position of the "housemother," or the director's wife.

Whether the director or managing couple should live in the home or in private outside accommodations depends on certain practical factors, above all on whether the director has a capable deputy to stand in for him. If so, then it may be in the interest of his own mental relaxation and that of his family to spend free time outside the home. Sister Elsener's survey revealed that accommodations for directors outside the home were extremely rare in Switzerland. Of the 154, 68% lived in apartments on the premises and 16% in rooms on the premises, or a total of 84% in all.

With regard to the issue of a practical form of management, an expert in the field of administration can be quoted: "In smaller and medium-sized homes the management is often in the hands of persons who have had previous training as nurses or attendants to the elderly (*Altenpfleger*), occasionally also persons with previous training in the socio-pedagogic field such as former heads of educational homes, church welfare workers, and persons who have worked their way up from a domestic position in the home, and finally, in increasing numbers, social workers who have perhaps a double qualification in both nursing and welfare work.[27]

Based on these notions just discussed, these principal types of management can be discerned:

- –A woman director with nurses training and possibly later training as a hospital matron.
- –A man or woman director with administrative training.
- –A man or woman director with welfare work training.

In the first case the woman director who is mainly oriented toward personal care and nursing must have an administrative colleague or assistant.

In the second case the administration-oriented director must have a matron or head nurse as a colleague or assistant. In proportionately larger homes the appointment of domestic manager and/or a person with training in group work and occupational therapy is also necessary.

In the third case, where the director has been trained in social work, he should be seconded by both a matron and a person with administrative training.

In all three cases various hierarchical combinations are possible:

- –A director who is the superior of the personnel.
- –Both or all three persons form a team and the home is run by this management committee.
- –One member of the team is elected to coordinate all three fields and to represent the home outside and in its relations with the owner or authority.

It would be useful to conduct a management science study on these issues to discover the optimal organizational structure for home management. Such a study could also explore the feasibility of merging several homes into one administrative unit in line with proposals made by the German Cities Association in its recommendations on assistance to the elderly (p. 25).

Training and education for home directors. This issue is closely related to the professional responsibilities associated with the position and the organizational structure of home management.

The position adopted by the voluntary welfare organizations in the German Federal Republic on August 17, 1972 establishes the following principles for home directors:

By virtue of their background, these professional groups are particularly suited to the tasks of home management: social workers and socio-pedagogues (with complementary training in geriatric psychology); male and female nurses or attendants (with complementary training in geriatric psychology and in advanced courses for positions of responsibility); and male and female attendants for the elderly, with at least five years' professional experience, knowledge of home conditions, and additional administrative training.

The various welfare organizations have established further training courses for persons holding responsible positions in old people's homes in order to bring the level of their professional competence into line with the home's needs. These courses can also be given as complementary training to enable participants to upgrade their professional qualifications and advance to higher positions.

This is happening now in Holland where, under the auspices of the LSOB (*Landeligte Stichting Opleidingen Begaardenwerk*), the following courses in assistance to the aged are organized as continuing education for qualified directors of larger homes: psychology, sociology, social skills, organizational knowledge, staffing management, business economics, anthropology, expression in word and gesture, encyclopaedic care for the aged, juridical problems, domestic service, and medical and nursing information. These courses last two years and represent 370 hours of course work. Classes are held monthly on three consecutive days or biweekly on two days, and include practical exercises. Visits and two study weeks are also organized. At the end of the course diplomas are granted to those qualifying after completion of a personal interview/examination.

There are also non-diploma orientation courses for qualified directors, consisting of 14 sessions of four

hours duration and seminars in study centers. The subjects treated emphasize daily problems of home life: social intercourse with the aged, orientation care for the elderly, physical aging and reactivation, physical aging, trained nursing aspects, organization and staff management, business-economic problems, social law, dietetics and dietary rules, spiritual backgrounds, conversation, recreation, and discussion of practical situations.

Other courses provide training and continuing education for personnel active in the field of aid to the aged and for board members of institutions in this field. Including the latter has proved useful. There are also courses in gerontology for nurses, social workers, and administration officials whose activities touch upon aid to the elderly.[28]

Some facts about conditions in the United States should be mentioned with regard to the training and functions of home directors. Of the heads of nursing homes, 71% have no academic training, and 35% have completed training courses for home directors.[29] These figures indicate that even in the United States training programs are still insufficient. Recent amendments to the Social Security Act have made the appointment of state-approved directors obligatory for the large majority of homes participating in Medicaid. Guidelines for Medicaid state that any person applying for a license must have a high school diploma. Effective January 1, 1975, every applicant must have successfully completed a two-year course of study at a college or university level. Effective January 1, 1980, a B.A. will be required and after an additional five years a Master's degree. Thus there is a tendency to demand complete academic training for this position as director of a nursing home, including in this regard also old people's homes. This requirement has long existed in other social and cultural institutions. The authorities concerned are, however, aware that this goal cannot be reached quickly and, consequently, intend to achieve it in stages over the next 15 years.

The various states have issued detailed directives governing the licensing of home directors and minimal requirements for their training and practical preparation. The relevant regulations from the Illinois Nursing Home Administrators Licensing Act of 1970, section 4, are quoted as an example:

A person is qualified to receive a license as a nursing home administrator: (a) who is at least 21 years of age, (b) who is of good moral character and temperate habits, (c) who is of sound physical and mental health, (d) who is a citizen of the United States or is lawfully admitted for permanent residence in the United States and has filed a declaration of intent to become a United States citizen, (e) who, prior to June 30, 1972, has graduated from a high school approved by the Department or has demonstrated equivalent competency as determined by an examination approved by the Department and has had at least one year of experience as a nursing home administrator or two years of experience as an assistant nursing home administrator in a facility licensed for 50 beds or more within the 36 months immediately preceding the date of application, or who presents evidence of education, training, or experience deemed by the Department to be equivalent of either of the above, (f) who is a graduate of a college or university deemed reputable and in good standing by the Department, or who has satisfactorily completed a course of instruction approved by the Department containing subjects embracing the laws governing the operation of nursing homes, the protection of the health and safety of patients in nursing homes, and the elements of sound nursing home administration, or who presents evidence to the Department of education, training, or experience deemed by the Department to be equivalent of either of the above, (g) who passes a written examination conducted by the Department to determine his fitness to receive a license as a nursing home administrator, and (h) who pays the required fee. In implementing the Act, the Department and the Advisory Board shall give due consideration to the availability of educational programs in either institutional administration or business administration, or equivalent experience in business administration.

In the standards for licensing for administrators of homes for the aged or infirm in Nebraska, instruction in the following study fields is required for the diploma. The content and type of examinations required for licensure as a nursing home administrator shall be as prescribed by the Nebraska Board of Examiners in Nursing Home Administration. The Board shall prepare an examination in such areas as environmental health and safety, general administration, patient care, departmental organization and management, community interrelationships, and basic terminology. Such examinations shall be administered at least once a year, at a time and place announced by the Board.

(b) Training of Home Personnel

In the preceding section we have seen that in Federal Germany, West Berlin, France, and England, there are particular rulings in the legislation regarding home directors. In Belgium, Holland, and the Federal German states the position of director is included in the sections on home personnel.

Those acquainted with conditions of living in a home will probably not consider it an exaggeration that of all the factors which determine the quality of a home, the well-being of its residents, and the standard of care and nursing they receive, none is more decisive than that of a

capable, patient, understanding, and honest staff. At the same time it is also well known how often personnel do not meet this standard and how difficult it is to find qualified and reliable employees in adequate numbers. Perhaps this latter reason explains why legislation in various countries refers only briefly to personnel. The rationale to Par. 8 of the Berlin Homes Regulations of October 10, 1967 notes: "In view of the known problems met in similar institutions with regard to requirements and the suitability of the relevant personnel it has, on principle, been decided not to lay down more far-reaching and detailed individual requirements in this respect. The only exception to the above is in the case of nursing staff in nursing homes and in those old people's homes which accommodate persons in need of special care and nursing."

Our examination of the legal rulings governing personnel must consider their trustworthiness and reliability, their number required, professional competence, and health.

The *Dutch* legislation contains no ruling on personnel. As in the matter of the home director, the provincial Board of Deputies is merely required to issue regulations on the number, competence, and suitability of home employees.

The *Federal German* legislative draft merely provides for individual states to issue minimal requirements for the number and suitability of employees.* "The director and his personnel should be so suited to their task and the latter available in such numbers as to guarantee adequate board and care in keeping with the nature of the institution" (rationale to Par. 3 of the bill). The notion of "suitability" includes both professional competence and personal reliability. Regulations of the various states on this subject will be treated at length later.

Art. 37 in the *English* National Assistance Act which sets conditions for licensing contains no special regulations for personnel. However, the National Assistance (Conduct of Homes) Regulations of 1962 imposes on the director of a home registered under Art. 37 the obligation to have available both day and night qualified and capable personnel in numbers sufficient to meet the needs of the size of the home, and the number of residents and their state of health (4j). Here too the regulations are not specific and leave much to interpretation by administrative authorities.

The *Belgian* regulations (Royal Directive of March 22, 1968 (IV)) contain these specifications:

The home should at all times have at its disposal sufficient numbers of competent personnel to provide the elderly residents with the necessary care and attention. Furthermore, the home must employ such personnel as are needed for cleaning and maintenance of the premises (1).

Day and night there should be an employee at hand whose responsibility is to answer any call immediately (2).

The director must present character references for both himself and every staff member (3).

The license for a home can be either refused or withdrawn if persons with prior convictions for certain offenses either in Belgium or abroad are employed (3).

In *France* also Art. 206 of the legislation of December 24, 1971 states that no person with a prior conviction for criminal and other offenses may be employed in an old people's home.

With regard to the employees of a home the Homes Regulations and corresponding implementation regulations in the *Federal German* states stipulate (e.g., Lower Saxony, October 4, 1968, Par. 8):

The owner may only employ persons who can be considered to have the reliability required for their position. The number of persons employed must be such as to guarantee nursing and care, even at night, commensurate with the need of residents. For every group of up to 15 residents, nursing homes must provide one employee who has either received nursing training or who is particularly experienced. This applies to old people's homes which accommodate residents in need of nursing care as well.

The implementation regulations contain a number of clarifications. On reliability: because of the residents' particular need of protection, those employees are considered reliable who offer the guarantee that they will duly conduct the tasks to which they are assigned. The owner or authority must ascertain, by testimonials and references from the previous employer, whether any circumstances exist which place this quality in doubt. Should he learn of any, he must cease to employ the person involved. The type and extent of reliability required depend on the type of employment to which the person is assigned as well as the particular type of protection required by the regulation—this is especially important with regard to property, physical well-being, morality, and personal freedom of residents (e.g., Rhineland-Pfalz regulations of October 2, 1970 C II). The Berlin regulations of April 24, 1968, in referring to Par. 8 of the Homes Regulations, emphasize, as in the case of the director, that a correct and understanding attitude toward residents is an essential part of the proper accomplishment of an employee's duties. In a case where any doubt as to reliability exists, a certificate should be obtained from the central criminal register and inquiries made to the police about any proceedings which may be in progress (Par. 8).

*See Addendum, No. 3, p. 91; No. 13, p. 93.

The number of personnel required must be evaluated by considering the degree of care and nursing necessary due to the age and infirmity of residents and the contractual obligations of the owner or authority toward residents. According to the Federal German state regulations, the agreement between the home and the residents forms part of the bookkeeping (e.g., Lower Saxony, Homes Regulations, October 4, 1968, Par. 10 (2)). The Berlin implementation regulations of August 24, 1968 state that the number of kitchen and cleaning staff must be sufficient to guarantee kitchen services and cleanliness of the premises.

With regard to personnel competence, minimal requirements are specified only for nursing personnel employed in nursing homes or those homes which accommodate residents in need of care. Such homes must provide at least one person with nursing training or one person with experience in care and nursing (e.g., Lower Saxony, Home Regulations, October 3, 1968, Par. 8 (3)).

The term "trained nursing personnel" is explained in these regulations as applying to: ". . . attendants for the sick (*Krankenpfleger*), qualified nurses, male and female medical orderlies (*Krankenpflegehelfer*), and qualified male and female attendants for the aged (*Altenpfleger*). Whether in the absence of such qualifications a person can be considered to possess much experience, which according to Par. 8 of the Homes Regulations is deemed to be sufficient, must be decided in view of the person's previous occupations and the extent of the residents' need for care and nursing" (Regulations of December 13, 1968, Par. 12).

With regard to the health of personnel, reference is made to the relevant stipulations contained in the Homes and the implementation regulations and to the general legal rules in force, in particular the Federal legislation on infectious diseases (e.g., the Hamburg Technical Directive 1/69 of January 21, 1969).

The importance attached to a medical examination for personnel is illustrated in the case of *Israel*. According to the Act for the Supervision of Homes of 1966 (Regulations concerning the inspection of homes, Art. 15), no person may be employed in a home who has not previously been examined by a recognized medical institution and is not in possession of a certificate stating that he is free from open tuberculosis or any other contagious illness and is not a carrier of parasites. In the case of illness, an employee may not resume work without a medical clearance certificate. In addition to other examinations, kitchen personnel must undergo culture and stool tests once a year. An employee whose personal hygiene or cleanliness of clothing are not up to standard is forbidden to work in the kitchen or dining room. This is also true for employees suffering from skin rashes or open and festering wounds which are not bandaged.

In conclusion, reference is again made to the Federal German Homes Regulations. Only general rulings on the subject of the number and qualifications of personnel exist. Nevertheless, Par. 9 of the Homes Regulations provides for divergence from even these minimal requirements if it is in the interests of the public or if the requirements pose an unreasonable demand. Any exception must be compatible with the needs and preferences of the residents. Clarification of such terms as "public interest, unreasonable demand, and compatibility" is provided earlier in this chapter in the section on exceptions to minimal building standards.

(c) Training of Attendants for the Aged

Existing legislation in various countries contains no particular regulations concerning personnel training. In the last few years, however, in West Germany a new professional group has been created which specializes in care and attention to the elderly: attendants for the aged (*Altenpfleger*).

This new profession was needed because the personnel previously available became insufficient due to the increase in the number of old people and the shortage of qualified nurses and other nursing and care personnel.

Attendants for the aged, both men and women, are employed in institutional and non-institutional forms of aid to old people. Women from the middle-aged group, who feel the need to pursue an occupation once their children no longer require supervision and care, are well-suited for such training. Several of the Federal German states, such as Hesse and Berlin, have issued regulations governing their activities, training, and requirements for state recognition.[30]

In the Berlin directive of September 1, 1972 the tasks of these attendants are defined as:

- –Care of the aged in the personal and social sphere.
- –Care of old, infirm, or invalid persons.
- –Cooperation in health care and the following of medical instructions.
- –Promotion of family and neighborhood assistance.
- –Guidance and instruction in activities commensurate with old age.
- –Arrangement and organization of get-togethers in old people's day centers, leisure activities, and other social occasions.
- –Assistance in rehabilitation.
- –Organizational help in running institutions whose purpose is the provision of care and aid to old people in the personal or social sphere.

Training is given in Ministry-approved educational institutes, each of which is attached to an old people's home. One of the staff must be a qualified doctor. Participants must be at least 18 years of age. The training lasts at least one year, and consists of theoretical teaching and practical instruction. There are 1,600 course hours--850 for theory and 750 for practical training. The theoretical teaching covers these fields for these amounts of hours:[31]

Basic anthropology	45
Techniques of intellectual work	30
Sociology, especially geriatric sociology	45
Geriatric psychology, psychiatry, group dynamics	120
Nutritional science	40
Health and illness	150
Nursing of the elderly and sick	100
Medical remedies	30
Job knowledge	25
Legal affairs concerning the aged	45
Social law and social welfare	60
Bookkeeping and correspondence	40
Occupational guidance and instruction for aged	60
Movement exercises for the elderly	60

The Hesse directive groups these individual fields into the following: intellectual and cultural education, social and pedagogic training, nursing training, political institutions and law, and complementary training in relation to an individual's own specific profession.

Under certain circumstances such a course can be replaced by part-time training courses or courses concurrent with the exercise of the profession. To be eligible for this type of course in Hesse, a person must be 25 years of age, have at least five years of experience as a nursing auxiliary caring for the aged in a home or hospital or at least five years of experience in a profession or in a household, and have no personal or family responsibilities which would make participation in such a course an unreasonable burden.

The two previously mentioned training variants last for a period of 18 months.

Practical training is given in an old people's home (the Hesse directive requires a home with an infirmary) or in a nursing home, in organizations for non- or semi-institutional assistance for the elderly, and at least six weeks in a hospital.

At the end of the course, within the framework of work groups and discussions with instructors, at least up to four weeks should be dedicated to synthesizing what has been learned, placing the knowledge acquired in a larger context, and adapting it to the needs of future practice.

The course leads to an examination. This is followed by a year of practical work in institutions and in programs of aid to the elderly. When a person already has the lengthy experience in the field of nursing prior to beginning this training, the one year's practicum can be partially dispensed with, under certain circumstances.

In all, the normal training period for an attendant for the aged, including theoretical instruction, practical training, and the one year practicum, lasts for two years. A distinction must be made between training courses for attendants for the aged and attendants for the sick. However, the latter are not frequently employed in the area of help for the aged.[32]

(d) Acceptance of Gifts by the Home Authority, Director, and Personnel

Two countries, *France* and *West Germany*, have legislation on this issue. It is intended to avoid two types of abuse: (1) financial demands made, not in accord with the usual fees charged for services and benefits provided by a home, but rather in accord with the financial situation of the individual resident, and (2) the presentation of gifts which are more than a small personal token of friendship.

It is not infrequent that home directors are included in the wills of residents as beneficiaries or legatees. It is not always possible to determine if such gifts and donations were the result of genuine affection and friendship, or if they were made as a result of moral pressure brought to bear on elderly persons whose powers of resistance were diminished.

The solution advocated by the 1971 *French* legislation is simple and straightforward. Home authorities, owners, directors, and personnel are, on principle, forbidden to derive any personal benefit from gifts made to them by either living or deceased residents (Art. 209 of the legislation of December 24, 1971).

By comparison the *Federal German* bill (Par. 12) is more specific but more limited in its application.* It distinguishes among three types of donation:

- gifts to the owners or authorities which exceed the fees agreed to for board, care, and accommodations
- the repayment of pre-payments, loans, and other sums of money made over should a resident leave the home
- gifts to the director or personnel for services to be provided at a future date and which are more than mere marks of attention

Here too the bill intends to prevent the exploitation of helpless, unsuspecting old persons in need of care and

**See Addendum, No. 11, p. 92; No. 13, p. 93.*

dependent upon an institution to receive it (rationale to Par. 12, p. 25 of the legislative draft).

The regulation on the first type of donation prevents the owner or authority from claiming more than the usual fees for services and facilities offered. The different financial status of various residents must not cause preferential or detrimental treatment. Gifts made for philanthropic purposes or small tokens made from decency or politeness are excepted from this ruling. The competent authorities can also make exceptions to this rule.

The regulation for the second type of gift is to guarantee that if a resident should leave the home, the home accounts will be settled correctly, and that sums paid to the home as a pre-payment or loan, either upon entry or during residence there, will be repaid correctly. Exaggerated charges in the event of the death of a resident or his departure from the home must be prevented in all circumstances.

With regard to the last category of gift, neither the director nor the personnel may accept or agree to accept gifts in return for future services or benefits. The French and Federal German rulings on this subject are essentially different. The Federal German bill speaks of gifts for services to be rendered at a future date. Thus gifts for services already rendered are permissible. Unfortunately this can lead to innumerable abuses. Obviously there are cases where gifts are made from gratitude or personal inclination. But it is possible that these gifts could be made because a resident is afraid that he will not get sufficient attention unless bribes are made. In many homes, for example, one witnesses a situation where regular payments are made to the home and nursing staff, even though the recipients are better off financially than the residents. Such gifts are not forbidden in the legislative draft because they come under the provision for gifts made "from decency or politeness." The home administration is powerless to prevent such payments.

But a situation where gifts are made regularly and are even expected by the personnel poses a problem which must be resolved. The best solution in time would be to raise the status of the personnel in such a way that they themselves would consider it beneath their professional and personal dignity to accept money from residents. The same problem exists, of course on a larger scale, in the case of donations made to the director, particularly when it is a bequest. Any link between the fulfillment of professional duties and material rewards for their fulfillment is undesirable in the interests of the elderly. This raises the question of whether the wording of the Federal German bill is in fact sufficient.

The French ruling, which does not distinguish between services rendered in the past and those to be provided in the future, would appear to be a better solution on behalf of the residents. Under no circumstances, however, should donations resulting from the death of a resident be permitted. Should this occur, the heir(s) should have the legal right to contest the will.

5. Food and Dietetics

Only the legislation in *England* and *Belgium* discusses the subject of food. In the 1962 (Conduct of Homes) Regulations in England, the section on the provision of facilities and services obliges the director of a home to ensure that every resident is provided with acceptable and appropriate food, prepared under satisfactory hygienic conditions (4h). The application of this principle is left to the competent administrative authorities.

The Belgian directive of March 22, 1968 (Art. 2) requires that residents be provided with a hot meal at least once a day. The preparation and serving of these meals must be conducted according to the strictest standards of cleanliness and hygiene. The diet must be varied and nourishing and should be commensurate with the health of the residents. Diet instructions from a doctor must be observed. Residents must be informed of the menu a day in advance.

The *Israeli* regulations concerning the inspection of homes, issued on March 30, 1966 (II I-3), also govern the subject of food, stating that meals for the elderly should be adapted to their needs. Not less than three meals should be provided daily, at least one of which should contain cooked foods. The composition and quality of the meals should correspond to the recommendations contained in the special ministerial circulars to homes.

In this context it is of interest to note that the United States Department of Health, Education, and Welfare, Public Health Service, published in 1971 a "Guide to Nutrition and Food Service for Nursing Homes and Homes for the Aged" (Rockville, 1971), containing essential information and recommendations on the provision of appropriate food.

Even though few legal stipulations exist on the subject of food, it is essential, nevertheless, to draw up certain minimal requirements similar to those of Belgium and Israel. Thus when inspecting a home in the area of food, it is the author's opinion that these criteria should be applied:

(1) All residents should be served appetizing food in sufficient quantity. Where possible, it should be adapted to their needs and tastes. (This would pose no problem in cases where residents take part in preparing the menu, as is proposed in the Federal German bill.) The food must be adapted to the age of residents, i.e., the type of food served and the manner in which it is prepared must be in accord with the health requirements of the aged

even with regard to those residents who are not ill or in need of a special diet. The food must contain essential nutrients such as protein, calcium, iron, and vitamin C. Each day the meals should contain four principal nutrition elements: milk, meat, fruit, and vegetables.

(2) Homes should provide special diets for the sick when prescribed by a doctor. Experience has shown that many homes are negligent in this area. Because the preparation of these diets requires specialized knowledge and additional personnel, special dietary foods, additional work, and an increase in cost, many homes content themselves with providing standard diets for certain illnesses which occur with frequency among the aged, such as diabetes and stomach and intestinal disorders. This standard diet is usually not sufficient. Present standards for diets in homes should be raised by employing dietetic nurses or, if this is not possible, consulting dietitians. Depending on the individual or the legal situation, the extra expense incurred must be covered wholly or in part by the home owner or authority, sick funds, social assistance, or the residents themselves if they are paying their own fees. There can be no justification for failing to provide a carefully prepared diet judged necessary by a doctor. To avoid any error, it is important that a doctor's dietary instructions be available in writing and be checked at regular intervals.

(3) In this context other points must be mentioned:

(a) It is anticipated that in the coming years the practice of serving industrially prepared meals will become widespread. In the long run this will probably revolutionize the provision of meals in homes. The primary purpose of the home's kitchen will then be to heat the meals, adapt them to the tastes of residents, and prepare them for distribution. Under certain circumstances such a system could also facilitate problems of diet. If today this system has not yet been widely adopted, primarily due to costs, it is in all probability a trend which will not be halted, if only for the possibilities it offers of economizing on personnel. Already there are homes which have their meals delivered from central kitchens.

(b) The psychological importance of giving residents a choice of several dishes must not be underestimated. Such a choice would be a symbolic expression of their freedom and would contribute toward lessening the institutional character of communal meals. In larger homes a self-service system can be introduced for more active residents, based on the American or Scandinavian models. This would give residents the opportunity to choose from a selection of hot and cold dishes and drinks. Further study and practical experimentation in this area are needed.

(c) Menus should be prepared several weeks in advance to avoid monotony. Care should be taken that the same dishes are not served too frequently.

6. Medical Care, Nursing, and Rehabilitation

In many cases there is a lack of specific regulations on the type, extent, and organization of medical care and nursing in homes.

There are perhaps two reasons for this. First, care and nursing come under the general health stipulations and regulations applicable in hospitals. Secondly, it is possible that in the fields of supervision, treatment, and nursing, the legislator prefers not to intervene in a situation deemed adequate by doctors and home owners or authorities unless a complaint has been filed or health office inspections have revealed serious problems.

In *England* the 1962 (Conduct of Homes) Regulations state that the home must:

- –Provide for each resident such accommodations and space by day and night as is reasonable with regard to age and sex and the nature and degree of any mental disorder or other illness or disability (a).
- –Employ by day and night suitably qualified and competent staff in numbers which are adequate with regard to the size of the home and the number and conditions of the persons received there (j).
- –In the case of a home for mentally disordered persons, keep such records as may from time to time be required by the registration authority (k).
- –Arrange as may be necessary for the provision of medical and dental services for residents, whether under Part IV of the National Health Service Act of 1946 (a) or otherwise (m).
- –Make suitable arrangements for the safekeeping of drugs (n).

The *Belgian* directive (March 22, 1968, IIB 13-16) states:

- –For residents not accommodated in single rooms, separate and isolated rooms should be provided for health reasons (as already indicated, the Federal German Homes Regulations require that at least one room equipped with a bed is to be held in reserve as an isolation room).
- –Before acceptance into a home, an old person must provide a medical certificate containing the latest X-ray exam. This certificate must confirm the absence of any contagious illness.
- –Where any contagious illness is involved, the state health authorities must be consulted in case of doubt. They must be informed immediately of the presence of any infectious disease.

– A dossier must be kept for each resident, containing notes of the doctor's instructions and a record of the measures taken in accord with them. Confidentiality of the dossier must be guaranteed, but the state health authorities have the right to inspect it.

In *Holland* a person may be accepted into a home only if an admissions commission, one of whose members is a doctor, raises no objections.

In *Israel* (Regulations concerning the inspection of homes, March 30, 1966), there are regulations on the duties of doctors in determining acceptance of the aged into homes (4 a-f). In the case of a person unable to look after himself, entry into and departure from a home are decided by a committee composed of the home director, a social worker, and the medical officer responsible for the home. A report from both the medical officer and the social worker is required for application for acceptance. The medical report must discuss his health in general and physical functioning, and must contain a lung X-ray, an electrocardiogram, and the results of eye and ear tests. These examinations must be held at least one month prior to entry. The Israeli regulations also require the availability of an isolation room for emergencies. This room must have its own washing facilities and toilet.

The Israeli legislation lists the medical services and benefits to which residents are entitled: a general medical examination and eye test once a year; regular medical treatment; regular dental checkups and treatment; supervision for old patients and those hospitalized; first aid; general medical supervision; responsibility for the clinic, its facilities, and medical equipment; an up-to-date medical dossier; aids such as crutches, hearing aids, glasses, and dentures; and aid at night when needed. It even specifies the number of visits to be made by the doctor: for 13 to 50 residents, twice a week; for 51 to 100 residents, three times a week; and for 100 and up, daily. The prescribed number of qualified nurses and the number of hours of nursing service provided for residents are: for up to 30 residents, service as needed; from 31 to 75 residents, four hours daily; and from 76 residents on up, eight hours a day. For the treatment and examination of residents these facilities are required: examination bed, screen, medical and instrument chest (which can be locked), wall chest for first aid, instruments to check blood pressure, stethoscope, electrical sterilization unit, wash basin with taps, medical files, heater, scales, and writing desk. In homes accommodating more than 40 residents a special room for medical examination and treatment should be provided, with an area not less than 12 square meters.

At the beginning of this section it was stated that an analysis of legislation would provide only a general idea of the vast field of medical and nursing care in homes. Therefore, some main questions shall be treated now in addition to the report on the legal situation. These questions cover four main areas: principal illnesses and complaints, duties of doctors, nursing, and rehabilitation.

(a) Principal Illnesses and Complaints

An analysis of the illnesses and impediments found in 711 residents of six homes, based on medical diagnoses and the homes' dossiers, revealed the following percentage frequency of various illnesses:[33]

IN OLD PEOPLE'S HOMES	%
Diseases of the heart, peripheral blood vessels	60
Diseases of the liver, gall bladder, stomach, intestines, kidneys, urinal tract, glands	29
Marked diminution of physical and intellectual faculties due to illness and age	27
Rheumatic diseases (including arthritis, arthrosis, gout)	25
Diseases of the cerebral and nervous systems (stroke, apoplexy, neuralgia, Parkinson's disease)	16.5
Psychic disorders (neurosis, psychosis, senile dementia, depression, disorientation, etc.)	14.5
Physical impediments due to deformity, lameness, amputation, etc.	8
Diseases of the respiratory organs	8
Eye diseases	7
Skeletal diseases (e.g., osteoporosis)	6
Throat, nose, and ear ailments (e.g., severe deafness)	5.5
Growths (Particularly cancer)	3
Intellectual incapacity (feeblemindedness, mental debility)	1

IN NURSING HOMES	%
Diseases of the heart and blood system	63
General marked diminution of physical faculties due to illness and age	49
Diseases of the liver, gall bladder, stomach, intestines, kidneys, etc.	40
Rheumatic diseases	36
Psychic disorders	26.5

The fact that the total percentages are in excess of 100% is explained by the fact that some old people suffer simultaneously from one or more complaints.

Although this analysis covers a large number of cases, it is not sufficient to provide an accurate comprehensive picture of all the ailments and impediments of hundreds

of thousands of persons of all nationalities and social circumstances. These figures are provided because they appear to be sufficiently representative for use in comparisons.

(b) Duties of Doctors

In a home a distinction is to be made among three types of physicians and their duties: the doctor who is called in to treat individual cases; the home's medical practitioner; and the public health officer in charge of the home.

In most countries a resident's freedom of choice includes the right to select his own doctor. This right is often facilitated by the fact that the home is regularly visited by its own practitioner who is also at the disposal of individual residents if they request it. The home assists the doctor in every way possible. It places the examination and treatment rooms and the medical equipment at his disposal and completes the patient's index card as instructed by the doctor. A nurse is present at the examination and diagnosis and receives instructions from the physician. The home is obliged to carry out these instructions even though they may pose problems in the cases of diet and rehabilitation. The home is also responsible to ensure that the patient receives prescribed medicine at the times and in the doses stipulated.

Many homes are content with the system of the doctor on call. But practice has shown that this system alone is not sufficient because the doctor feels responsible only for the health of his patient(s) and not for the health of the home's residents as a whole.

There was a flagrant example of this in the United States, an example cited here because it appears to be relevant to conditions in Europe as well. In July 1970, 11 residents of a nursing home in Baltimore, Maryland died of salmonella poisoning. In addition, 95 of the 144 residents and 36 employees showed symptoms. It was established that the main cause of the outbreak was the unsatisfactory sanitary conditions in the home, particularly in regard to the handling of food in the kitchen and to the distribution of meals. State inspection had proved to be inadequate. State health authorities intervened late because the home management and the doctors treating the patients had not bothered to inform them in time. In the opinion of the health commissioner some cases of death could have been avoided if notification had been made in time. Because of the interest shown by the public and the press, the United States Senate Subcommittee on Long Term Care held hearings on the matter and concluded:[34]

- –Failure to report the outbreak did not constitute exceptional carelessness but rather was typical of the usual practice among nursing homes.
- –Communications between the doctors summoned and the home personnel was insufficient.
- –Doctors who treated individual patients did not feel responsible for the general sanitary and hygienic conditions in the home.

As a result of this incident, the Maryland Health Department decided that each home should have a medical director responsible for medical care. These duties would not necessarily constitute his main field of practice. His functions would have to be clearly defined and he would require a special salary or fee.[35]

The appointment of a home medical practitioner is also desirable and expedient in European homes. His functions would cover:

- –participation in the decision on acceptance or discharge of residents
- –individual examinations and an annual general examination of residents and personnel
- –general supervision of the home's psychological and physical well-being
- –counseling the home authority, owner, or director in medical matters
- –extension of the medical and psychological care facilities
- –supervision of medical equipment, nursing, nursing personnel, general hygiene, and provision of meals
- –storage of medications, their proper distribution, and the general health card index
- –supervision of residents' entry into general hospitals, nursing homes, or special clinics, and of continuing contact with them
- –issuance of home certificates in health matters
- –dissemination of information to residents and nursing personnel on health problems, in particular, measures of preventive medicine
- –supervision of rehabilitation programs and their results

The home's medical officer, the home management, responsible nurses, and other personnel such as dietetic nurses, physiotherapists, and occupational therapists should form a team to hold case conferences on individual residents at regular intervals and to consider individual steps to be taken as needed. In larger homes the appointment of a part-time psychiatrist to visit the home regularly is also necessary.

The third type of doctor involved in homes for the aged, the public health officer, is assigned by the national or local health authorities and is responsible for supervising establishments providing institutional aid to the aged. Such supervisory systems presumably exist in all European countries. A technical directive issued by

the health authorities in Hamburg lays down the functions of these officers in detail:[36]

The health officer must inspect all the homes in his area at least once a year (2.1).

For these inspections the health officer must be accompanied by representatives of the housing authorities and the competent welfare authorities (Department for Assistance to the Elderly) (2.2).

The home may not be informed of the inspection more than 24 hours in advance. In certain cases, in particular those where a seemingly justified complaint has been made, the inspection is to be carried out without prior notice (2.2).

The health officer is to inspect documents such as those indicating bed occupation, inspection reports, in particular the findings from examinations of the residents (2.3).

The home receives a copy of the report which he prepares. If it requires that shortcomings be rectified, the home must be notified in writing of its obligation to make these corrections (2.4).

In the course of the inspection the health officer must inform himself of the state of health of the residents and gain a first-hand impression of the general state of their health as a whole. He must obtain a report from the management concerning any observations they have made with regard to old persons entrusted to their care. In this context he must keep alert for any cases of chronically bedridden or severely handicapped residents and check if the personal and material requirements for their proper care are being met. With regard to personnel, he must see that there is a sufficient number of qualified employees to meet the needs of the home and that they are adequately accommodated (2.5).

The health officer must pay close attention to the distribution of medicines, especially ascertaining if in their dispensation any laws have been violated. He must check if the prescribed medicines are in the care of the management or personnel responsible. In the absence of any instructions from a doctor to the contrary, medicines may be administered only to persons for whom they have been prescribed. Where these drugs are no longer required, the health officer must see to it that they are destroyed. He must also remind the home to report any cases of contagious or infectious illnesses as required by the Federal legislation for the prevention and control of such diseases (2.7, 2.8). Similarly, he must inspect the medical certificates, and check and evaluate the home's equipment and facilities, noting: the size, lighting, ventilation, heating, furnishing and bed occupation, general cleanliness of the rooms; protection of residents from noise, odors, etc.; available space for movement (day room, garden, parks, etc.); rooms to accommodate residents incapable of helping themselves, e.g., sick-bays and rooms for the dying; and wash, bath, and shower facilities (2.9).

Kitchens and provisions store rooms, including cold storage and refrigerators, must be inspected for cleanliness, neatness, and appropriate and hygienic storage of foodstuffs (2.10).

Menus should be checked to see that residents are receiving meals commensurate with the needs of the aged (2.11).

The home linen and equipment for care of the sick and infirm (bed pans, urine bottles, rubber rings, hot water bottles, etc., and where applicable, invalid elevators) must be checked. It should be ascertained how often linen, especially personal linen, is changed and washed (2.12).

The health officer should stimulate and encourage the home to decorate the layout of communal rooms in a friendly, homey manner, seeing to it that sufficient facilities for intellectual stimulation are available (2.13).

He should discuss with residents their preferences regarding improved accommodations, food, and general care (2.14).

In many states the inspection of homes is conducted by the public health officer in close collaboration with the competent welfare authorities responsible for the general supervision of a home. Often these visits are conducted together, and not infrequently common inspection reports are prepared and filed, or both are published simultaneously by the supervisory authorities. Close cooperation has proved to be practical and productive without exception.

(c) **Nursing** (see also supplementary note on functions and numeral distribution of personnel)

Nursing requirements range from acute emergency cases and non-serious ailments to total care in cases of total dependency. The individual's particular situation in regard to nursing is the prime factor in determining the category of home which he will enter. Generally speaking, residents of service flats will only require nursing in acute emergency cases. However, service flats must ensure that the necessary nursing care is available should an emergency situation arise.

In old people's homes the degree of good health is somewhat less and there is a greater probability that age and illness will occasionally or temporarily give rise to a need for nursing. In nursing homes, of course, the need for nursing care is the general rule.

Nursing and care can take the following forms:[37]

- Assistance with personal hygiene (washing, bathing, shaving, hair care, care of feet and teeth, dressing and undressing).
- Assistance with evacuation (purging and other aids, bedpans, enemas, flushing, catheter, urine bottle).

—Treatment care, e.g., dispensing of medicines, injections, heat treatment, prophylexis for decubitus, sleeping aids.

—Activation assistance (movement exercises; instruction and help in the use of wheelchairs; massages; occupational, speech, and respiratory therapy).

—Particular supervision (check on temperature and pulse; watch cases of psychic disturbance, especially disorientation; marked diminution of mental and physical faculties, such as after operations, lengthy illnesses, advanced age, and expected attacks).

The Federal German Staedtetag proceeds from the viewpoint of the intensity of required nursing care and calculates the necessary personnel on this basis.[38] According to this classification system *light nursing* cases are those involving limited independence such as skeletal degeneration, chronic inflammation-producing illnesses of the joints, heart conditions due to age and requiring compensating treatment, chronic bronchial asthma, dilation of the lungs, diabetes, arterial sclerosis, and partial paralysis following a cerebral stroke. *Serious nursing* cases are those involving a high degree of dependence on assistance (abnormally high blood pressure, stiffening illnesses of the joints, Parkinson's disease, and prostrate gland ailments. The *most serious nursing* cases are those involving total dependence on help and permanent care: senile dementia, multiple sclerosis, total paralysis of one side after a cerebral stroke, incurable malignant tumors, total stiffness of the hip joint, double leg amputation, and bladder, rectal, and vaginal fistulas.

(d) Rehabilitation

Rehabilitation is developing into one of the most important functions of old people's homes and nursing homes. According to the definition of the American National Council on Rehabilitation, it entails the "restoration of the handicapped to the fullest physical, mental, social, vocational, and economic usefulness of which they are capable."[39]

In a larger sense the goal of rehabilitation is to enable the handicapped person to reintegrate himself partially or wholly into society. In a more limited sense, which is particularly applicable to the elderly, its goal is to eliminate or at least lessen the handicapped person's dependence on doctors, nursing personnel, and others in general. This dependence is often the result of accidents or illnesses which can occur to the young, but which are particularly typical of the elderly. Some of these, for example, are the Parkinson syndrome, bone fractures, strokes, paralysis, vascular illnesses and diabetes, sight and hearing difficulties, degenerating discs, arthritis, multiple sclerosis, and amputations. Because the rehabilitative treatment of such cases is generally beyond the capabilities of nursing personnel, the aid of physiotherapists is necessary, under certain circumstances on a part-time basis. To achieve positive results, the physiotherapist must cooperate closely on a team basis with the medical director of the home, the doctor treating the individual case, and the nurse responsible. The main task of physiotherapy is to help the patient to walk again (e.g., after a hip fracture or with artificial limbs and joints) or to strengthen the muscles by tension and contraction. The goal of treatment is to redevelop the patient's physical activity and to teach him to make the best possible use of his remaining physical faculties. Where improvement is no longer possible, it is a matter of preventing further degeneration. Some treatment methods are, for example, massage (as distinct from a massage provided in a nursing home), heat treatment, diathermics, and supersonic treatment. More important than any other form of mechanical treatment, however, are the regular movement exercises which the physiotherapist undertakes with the patient. For the facilities of the physiotherapy room the following equipment is recommended: wall weights, mats, finger ladders, stair steps, sandbags, shoulder wheels, parallel bars, cervical traction, mirror for gait training, ultra sound appliances, infra-red lamps, diathermy, hydrotherapy, paraffin bath, hydrocollator packs, crutches, canes, walkers, wheelchairs with brakes, desks, and activities for daily living devices.

Rehabilitation programs often make great demands on the organization of a home and the temptation is always present to leave the handicapped person in bed as long as possible rather than attempt to reactivate him through tedious efforts which often produce minimal results or none at all. However, it is these very efforts at reactivation and rehabilitation which provide proof of the seriousness of a home's claim to care for the physical and spiritual welfare of its residents.[40]

7. Social Integration and Activities

A home is not merely an administrative organization for care; it is also a social organism in which the old person acts and reacts as an individual and social being. It is no less important to satisfy his needs as a person than it is to meet his physical requirements. Unfortunately this fact has not yet been sufficiently recognized in practice.

The elimination of individual isolation, the development of social contacts, and self-realization through new experiences are factors of decisive importance for the spiritual well-being of the aged. This well-being is related closely to their physical condition and health and thus also to home care and nursing.[41]

The legal regulations treated in this report contain no clauses directly on this subject. In a certain sense, the Israeli regulations on home inspection of March 30,

1966 are an exception in that they require the provision of necessary facilities, tools, and aids for the residents' social activities and occupations (3 f).

The lack of standard legal requirements for the social activity of the aged and their integration into the life of the home is similar to the lack of specific details on nursing and rehabilitation. Thus the inspector has no firm basis on which to assess these factors in preparing his report. It is beyond the scope of this survey to formulate concrete proposals to fill in these gaps. However, I will outline some basic principles which could be considered when establishing legal minimal standards in the future. These principles refer to major activities which contribute to the individual resident's social integration and self-realization, such as occupational and hobby pursuits, contacts inside and outside the home, and participation in the home's organizational and financial affairs. These activities in turn are facilitated by the work of the occupational therapist, a sheltered workshop, and the social worker.

(a) The Occupational Therapist or Ergotherapist

The translation of the Greek word, ergotherapy, means "healing through work." More precisely, it refers to rehabilitative work. In larger American homes a distinction is made between the occupational therapist and the recreation specialist, with the latter responsible for those activities which do not fall under medical treatment. In European countries both functions are usually grouped together. Thus the activity of the occupational therapist is to be handled here within the framework of general home activities, without, of course, overlooking its rehabilitation aspects. Because of the importance of occupational therapy for the psychic and physical welfare of residents, no home can be without some organization of these activities. If no therapist is available, another solution should be found, such as enlisting the aid of a handiwork instructor. Even for smaller homes, improvised solutions should be found, for example, by cooperation between several homes or regular cooperation in the workshops run by old people's centers.

These principles should apply to the work of ergotherapists. Residents should participate on a voluntary basis. Those with health or medical problems should take part only with the written permission of their physician. The planning of a work therapy program should be based on the average level of the group involved. New interests should be awakened and old ones revived. Experience has shown that the revival of former interests and hobbies is the better method.

Planning a program based primarily on the choice of residents involved can be determined as follows. A list of proposed activities is prepared and presented to residents for their discussion. A form can be issued on which the resident indicates his previous professional occupation and favorite activities and states his personal choice now.[42]

Every home should have a spacious work room equipped with tables and chairs of suitable height and adaptable to those in wheelchairs, writing tables, cupboards, notice board, portable chalkboard, wash basin, joiner's bench, sewing machine, weaving frames, needlework equipment, woodwork tools, and miscellaneous objects such as brushes, leatherwork tools, and, if possible, a kiln for ceramics. In addition, a piano, record player and records, film projector and screen, and games and puzzles should be provided for non-handicraft activities.[43] Particular attention should be given to ventilation and lighting of this area.

What handicrafts and art forms should be practiced in the workshop? An American report suggests:[44]

Weaving, such as table sets, rugs, small carpets, bags, scarves, and mufflers, has the advantage of being an occupation which both men and women can enjoy, offering an unlimited number of designs to create and utilizing much rejected material. The disadvantages are that only one person can work the loom at one time, the loom itself is expensive and takes much time to set up.

Needlework, etc., with stencils, is suitable but demands relatively good eyesight.

Working with paper, on such objects as decorations, table cards for banquets, painting, collage, preparation of mailing orders, offers members the chance to work together. In general, this is the favorite type of occupation, but preparing mail orders can easily become monotonous.

Leatherwork is popular with men and women, is relatively simple, and can be done even by the bedridden. But it also requires good eyesight and a steady hand.

Copper and enamel work is simple and does not require especially keen eyesight or a steady hand. But a kiln is necessary and this implies a certain amount of risk and requires supervision.

Ceramics can yield pleasing results to residents, and does not strain eyesight. Apart from the cost of the kiln, the main disadvantages to this work are that unfired clay breaks easily and mold pouring is time consuming.

Woodwork is particular suited to men, individually or in groups, working on large or small projects. It does not require outstanding eyesight, steadiness of hand, or much supervision. On the other hand, it does require a certain amount of physical strength, a factor which excludes it for some residents.

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Needlework on such objects as sweaters, coats, stoles, scarves, cushion covers, garments, coverlets, etc., is mainly done by women and has many advantages. Skills acquired earlier in life can be put to good use; the sale of the objects offers a supplementary source of income; scraps can be utilized; the scale of work can be adapted to the individual's wishes and strength. It can be done in bed or at the side of the bed; however, good eyesight and supervision are necessary.

Sewing such objects as aprons, cushions, toys, etc., has approximately the same advantages and disadvantages cited for needlework.

Mosaic work requires neither good eyesight nor much supervision, and the coordination of eye, hand, and fingertips involved is therapeutically beneficial. The work is suitable for both sexes and once successfully completed can provide much pleasure. It can also be done while in bed. Its only disadvantage is the relatively high cost of materials.

Further activities which require little explanation include gardening, flower arranging, model ship building, wood and soap carving, music lessons, textile and finger painting, leather stamping, furniture renovation, and cooking and baking.

This latter activity is of particular psychological value to the former housewife. In most homes today women have little opportunity to practice their knowledge in this field in which they generally excel.

Certain forms of group activity are also proposed, such as forming orchestras and choirs, and organizing singing festivals, folk dancing, concerts, and card tournaments.[45]

For a qualitative evaluation of activities programs, the following criteria should be applied:[46]

- the degree of resident participation
- the extent to which residents can influence the type and scope of the activities
- the manner in which the activity supervisor or director provides stimulus, advice, and help in executing a project
- the degree to which individual activities form part of a coherent, overall plan including a proper distribution of individual and collective work, a suitable division into large and small groups, and a balance between leisure activities and adult education

(b) The Sheltered Workshop

The activities programs described previously often result in a supplementary income for residents or for the home through the sale of objects produced. This commercial aspect, however, is not the most important feature of these activities. Rather they serve to provide pleasure to the elderly by engaging them in creative activity and helping them to fill empty hours in a day. The purpose of the sheltered workshop, on the other hand, is to link activity with a regular income. This is achieved in the form of a fixed wage determined either solely according to the workshop's production income or, if necessary, by subsidies. There are also cases where the workers have formed a cooperative which is responsible for filling orders and sharing the net profit. In sharing profit, individual factors must be considered, such as the greater productivity of more robust residents in contrast to that of those handicapped by illness or advanced age.[47]

There are several reasons which favor further development of this type of workshop. For residents who are welfare beneficiaries, it can mean extra income. The stimulus and interest provided by an earnings-oriented activity is stronger than that of a leisure activity, even of those which occasionally result in extra money. To be able at age 75 or 80 to still earn money has a marked effect on a person's self-confidence and self-respect. Most residents have lived their lives in a society where earning capacity is the main criterion of social position. Thus in their eyes leisure activities and hobbies are at the most a substitute for activity which can result in financial gain. However, as has been emphasized by the disengagement theory, this conception is not valid for all aged persons. In general, and particularly in those homes where the average age of the residents is high, the elderly who are unable to work or do not wish to work for health or psychological reasons are in the majority.

The management of a home can help develop a sheltered workshop by taking the initiative in establishing it and helping to market its products, by supervising the work and providing aid when the work cannot be carried out by the residents on their own responsibility, by supervising accounts, and by providing free of charge suitable rooms, aids, and instruction.

Certain basic principles should be observed in operating a sheltered workshop. The type of work carried out by each resident should be medically approved and controlled. In general, the daily number of working hours should not exceed three. No sort of pressure should be exerted on anyone to take part in the work. Inappropriately low-priced orders should not be accepted, nor should a situation be created in which the workshop becomes a source of underhanded competition for the normal employment market.

(c) The Responsibility of the Social Worker in the Home[48]

The increased awareness of the importance of the old person's need for well-being and integration is resulting in a rising demand for social workers in homes. The

social worker can be employed as a director, an organizer of social and cultural activities, a counselor for residents and home administrative staff on matters of care and attention, and on a national or local level, a co-supervisor of standards in homes.

The primary role of social work in a home is to help the individual achieve self-help, i.e., aiding the often sick and weak old person to cope with his situation in life and to integrate himself into the home organization without at the same time surrendering his personality. If this process is difficult, it is the function of the social worker to discover the causes of the problem and, if necessary, to find and propose better solutions inside or outside the home.

The concrete duties of the social worker in aiding residents are multiple. He attempts to involve the resident in the decision making processes which concern him. He counsels the old person and his family on entry into a home or departure from it. He helps the old person select a suitable home or alternative accommodation. He provides home management and personnel with information on the history and social and psychological situation of the applicant or new resident. He counsels the new resident on the optimal integration into the life of the home. He cooperates with director and personnel in preparing a comprehensive plan for the home life of the new resident, taking into account the latter's functional possibilities. He provides counseling on legal and financial matters concerning pensions, public assistance, other public and private sources of assistance, illness, residence contracts, fees, etc. He facilitates continuing contact between the resident and family members and friends outside. He visits the resident regularly to keep informed of his progress and to listen to him. He conveys complaints to the management as well as his assessment of them. And alternatively he helps management obtain compliance with directives. He helps determine alternative solutions if continued residence in the home is not possible and aids in that person's reintegration elsewhere. The social worker should maintain an index card on each of the persons in his charge. This card should contain essential data and the worker's personal evaluation. As a rule this card is placed in the medical dossier.

With regard to the organization of a home, the social worker can counsel management on the creation and supervision of facilities for activities programs and social integration of residents. He can advise on social and emotional aspects of care. He can help train personnel to better provide care. He can participate in the work of commissions designated to judge on questions on entry into a home or the finding of alternative solutions. He can take part in the work of committees responsible for preparing programs for rehabilitation, social and cultural activities, or various forms of care and nursing, e.g., as a member of a team also consisting of the home director, a doctor, the matron, and the occupational therapist.

There are two organizational possibilities in utilizing a social worker in a home. He can function as a home employee, or he can act as a representative of a public authority or welfare organization. Both solutions have pros and cons. If the worker is a home employee (and at the present time this is true only in the case of larger homes), he can devote himself exclusively to work in the home and have much time for social care. However, he is then under the authority of the director and cannot function independently. It is this latter quality which often is an important factor for his success with residents. To a great extent the worker outside the home management works parallel with it. Practice has shown that due to the shortage of social workers and staff in welfare offices, the individual social worker often has too little time to make frequent and lengthy home visits. As a result, he is not able to devote sufficient time and attention to each home and its individual residents.

Because of this situation it is necessary to note these criteria when deciding which of these two organizational modes offers the better solution for employing the social worker. The most essential factor is that he visit residents often and spend as much time with them as possible. If this cannot be achieved by social workers from outside the home, it is preferable to place residents in the care of one who is a home employee. If enough are available from outside, then this solution is preferable. In time it is to be hoped that this latter situation will become the norm, especially in the interests of smaller homes which cannot employ their own social worker.

In concluding this chapter on norms and standards we have seen that much remains to be achieved in the field of legislation, regulations, and implementation directives in various countries. Many questions are left unanswered, particularly with regard to social life and activities in the home. A system of adequate standards in conformity with the findings of modern science and current social realities is an essential prerequisite for the efficient inspection of old people's homes. Such inspection, in turn, is the main factor on which the quality of these homes and the well-being of their residents depend.

SUPPLEMENTARY NOTES:

Model Ombudsman Projects in the United States

Due to widespread complaints over nursing homes, the appointment of ombudsmen has been the object of frequent public discussion in the United States in recent years. In a 1971 public address President Richard M.

Nixon demanded the creation of special investigating bodies to handle complaints of individual elderly patients. Accordingly the Department of Health, Education, and Welfare set aside $500,000 to test various organizational models for the office of an ombudsman. The feasibility of these five types of models are examined:

(1) A program directed by the National Council of Senior Citizens in Washington, D.C., is intended to be brought into effect simultaneously at the State and local level in Michigan with the cooperation of organizations of pensioners, consumers, and citizens. The office of the ombudsman is to be located in the Office of the Governor.

(2) In Idaho the plan is to bring the ombudsman under the protection of a unit directed by a deputy Attorney General and attached to the Special Services Department. This unit will have an advisory committee composed of consumers, homeowners, and State officials to assist it.

(3) In Pennsylvania the ombudsman is under the authority of the Council of Human Services and has its official headquarters in the Governor's office. It will be assisted by an advisory committee of 12 members similar in composition to that in Idaho . . . although half its members must be over age 60. In Philadelphia units composed on the basis of voluntary tenure in office are to be tested at the same time.

(4) In South Carolina the ombudsman is to consist of a body which operates under the authority of the State Commission on Aging which in turn is directly responsible to the Governor. Here too volunteers are to be selected and trained at the State and local level.

(5) In Wisconsin the Governor is to be directly responsible for the inspection of homes and the processing of complaints.

In all five model projects these questions on method should be examined: what is the procedure for handling complaints? to what extent does the use of voluntary workers prove successful? what is the standard of care in nursing homes? what is the reaction of the public, public authorities, and homeowners to this institution of the ombudsman? and to what extent do these test programs prove capable of development and application on a national scale?

Functions and Numerical Distribution of Home Personnel

This supplementary note enlarges upon the legalistic treatment of personnel included earlier in this chapter.

1. Main personnel functions in an old people's home include administration, social work, board and accommodations, nursing, diet, occupational therapy, rehabilitation, and technical supervision and maintenance.

2. A guide for the numerical distribution of personnel according to function and home category is:[49] (See Table I, page 67.)

3. A readjustment of these standard figures for homes which accommodate 100 residents gives the following sets of figures: (See Table II, page 67.)

4. Based on an estimate of the Communal Offices for Administrative Rationalization, the German Cities Association established these figures (the shorter work week which has since come into effect must be taken into account): (See Table III, page 67.)

In the opinion of the German Cities Association the nursing personnel should consist of approximately 50% qualified nurses and 50% other categories of nursing personnel, in particular, male and female attendants for the aged.[50]

5. The percentage of domestic and nursing personnel in proportion to the total number of personnel should be approximately: (See Table IV, page 67.)

6. The varying figures given above for nursing personnel are explained by the differing degrees of need for nursing care on the part of residents. The number of nursing personnel increases proportionately from service flats, through the old people's homes, up to the nursing homes which represent the maximum. The proportion of domestic personnel in nursing homes is lower than in old people's homes. The percentage ratio of nursing and domestic personnel to the total number of personnel is: in service flats, 70%; in old people's homes, 79% to 90%; and in nursing homes, 76% to 96%.

7. The excellent statistics provided by the National Center for Health Statistics makes it possible to compare conditions in the United States.[51] There care and nursing for the elderly, as well as old people's homes in the European sense of the term, come under the concept of nursing homes. It is worthy to note that of the approximately 815,000 persons accommodated in the various categories of nursing homes, only 11.4% are under 65 years of age.[52]

These categories are included under the American concept of nursing homes: nursing care homes, which account for about 58% of the total number of beds (these are comparable to the European nursing homes); personal care homes with nursing, which account for about 20% of all homes (these are similar to European old people's homes with infirmaries); and personal care homes, which account for about 22% of the total number (and similar in set up to European old people's homes).

TABLE I

PERSONNEL	SERVICE FLATS	HOMES FOR AGED	NURSING HOMES
Main Administration	1:90	1:60	1:50
Management, Office	1:90	1:60	1:50
Nursing	1:60	1:15 (1: 8)	1: 5 (1: 2)
Household a. Room Cleaning b. Kitchen, Dining	1:20	1:12 1:20	1: 9 1:20
Technical Services	1:80	1:80	1:80
	1:10	1: 4 (1:3.3)	1:2.4 (1:1.4)

TABLE II

PERSONNEL	SERVICE FLATS	HOMES FOR AGED	NURSING HOMES
Total Required	10	25–30	41–71
REQUIRED BY FUNCTION Main Administration	1	2	2
Management, Office	1	2	2
Nursing	2	7–12	20–50
Household a. Rooms, Laundry b. Kitchens, Dining	5	8 5	11 5
Technical Services	1	1	1

TABLE III

	OLD PEOPLE'S HOME	NURSING HOME, INFIRMARY
Nursing Personnel More Demanding Cases		1: 4
Serious Cases	1:16	1: 8
Non-Serious Cases	1:32	1:16
House, Kitchen Personnel	1: 8	1: 8
(of which their ratio to nursing cases is)	1:32 (for kitchen help)	1:32

TABLE IV

PERSONNEL	SERVICE FLATS	HOMES FOR AGED	NURSING HOMES
Nursing	20%	29–40%	50–70%
Domestic	90%	50%	26%

The following are statistical tabulations of the various categories of nursing homes, residents, and personnel.

These statistics were published in 1972 and 1973 but are based on 1969 figures. Consequently, the situation has since substantially changed as the number of nursing homes in the United States is currently increasing at a rapid rate. Nevertheless, the above figures should form a sufficient basis for conducting an analysis of the problems connected with occupations in a home since it can be assumed that the proportions have not substantially altered despite the increase in the absolute numbers.

A comparison with European conditions reveals this picture. The proportion of nursing care homes in relation to the overall number of homes is considerably higher in the United States than in Europe. The number of personnel employed per 100 residents is higher in the United States than in Europe. It is worthy to note that in the United States there is a relatively large proportion of personnel with special professional training in such fields as occupational therapy, leisure activities, physiotherapy, dietetics, and social work.

A. Number of Nursing Homes, Residents, and Personnel

CATEGORY	HOMES	RESIDENTS	PERSONNEL
Nursing Care	11,299	593,622	441,242
Personal Care with Nursing	3,877	159,013	87,981
Personal Care	1,357	60,699	24,656
Total	19,533	813,355	553,879

B. Division of Personnel into Three Main Function Groups According to Homes Categories: Nursing Care Homes, Personal Care Nursing Homes, and Personal Care Homes (as percentages of total personnel)

MAIN FUNCTION	ALL CATEGORIES	NURSING CARE	P/C/N	P/C
Nursing	59.7	62.8	50.3	39.1
Other Professions with Special Training	10.5	10.4	10.2	13.2
Others Not Requiring Special Training	29.8	26.8	39.5	47.7

C. Number of Employees per 100 Residents

ALL CATEGORIES	NURSING CARE	PERSONAL CARE W/NURSING	PERSONAL CARE
59	65	48	35

D. Distribution of Nursing Personnel According to Home Category and Qualifications in Percentages of Total Number of all Personnel

	ALL CATEGORIES	NURSING CARE	P/C/N	P/C
% of Total	59.7	62.8	50.3	39.1
Categories (Nurses)				
Registered	7.7	8.3	6.3	3.4
Qualified	8.7	9.1	7.4	5.5
Auxiliary	43.3	45.4	36.6	30.2

E. Professions Requiring Special Training According to Home Category and Number of Personnel in Particular Profession

	ALL CATEGORIES	NURSING CARE HOMES	PERSONAL CARE WITH NURSING	PERSONAL CARE HOMES
Total Homes	19,533	11,299	3,877	4,357
Total Specially Qualified Personnel by Function	58,178	41,966	8,953	3,261
Occupational Therapy	5,098	4,036	628	164
Physiotherapy	6,368	5,669	624	75
Speech Therapy	1,156	1,087	51	19
Leisure Occupations	4,817	3,926	635	256
Dietitians	8,189	6,450	1,168	482
Health Welfare	2,780	2,356	307	117
Medical Records	2,570	2,248	232	90
Other Professions Including Home Management	27,200	19,834	5,308	2,058

XII. Inspection Authorities and Inspectors

INSPECTION AUTHORITIES carry a heavy moral and, under certain circumstances, legal responsibility to ensure that inspection activities provide adequate supervision and control, that inspectors have the necessary qualifications to do the job, and that relations with home authorities, owners, and directors are conducive to facilitate inspection and render it productive. But we must consider if the way in which they are currently organized helps them meet the demands of their tasks.

I. A Model System for Organization for Home Inspections

An analysis of how home inspections are organized and function in various European countries often reveals a striking disparity between the importance attributed in the law to inspection, supervision, and licensing of homes and the manner in which this legislation is implemented by the authorities. It illustrates the axiom that the best law is worthless without appropriate forms of application and implementation. Perhaps a good method of discussing this subject would be to outline a model system for the optimal organization of home inspections.

The responsibility for assistance programs for the aged and institutions housing them should lie in a special authority which is also responsible for all aspects of supervision and control, i.e., on the administrative, technical, medical, nursing, and social levels. If an overall system such as this is not feasible, the best alternative solution would be to designate a particular office or authority to coordinate the implementation of controls, prepare a comprehensive report on it, and oversee the carrying out of measures recommended in it in close cooperation with the competent health authorities. Experience has shown that it is expedient to incorporate this authority into the Ministry of Social Affairs or an equivalent Ministry. Greater emphasis than hitherto should be placed on the importance of the social, as well as the physical, conditions in a home.

Contrary to current practice, this authority should not be local or district in nature. Rather it should cover an entire region, as is the case in Holland where it oversees at least 50 homes. This system makes it possible to gain an overall perspective of the problems which arise and by comparing their conditions to reach decisions based on uniform fundamental principles. This quantitative aspect justifies the existence of a special authority as well as the appointment of qualified inspectors who could devote themselves solely to the conduct of inspections.

An inspector's professional training and his own personal qualities should be of a high standard. His training should enable him to oversee all aspects of home organization, with the general exception of matters pertaining to the medical field. He must be capable of making objective judgments based on professional knowledge and experience. At the same time he must be realistic and be able to synthesize what is desirable and what is attainable in the immediate future. He must know how to relate to people and create for himself the image of a friend and confidant whose findings and instructions are based on natural authority and are not regarded as unjustified or troublesome.

The supervisory function is simultaneously a counseling function. It is in this spirit that the expertise and experience of the inspector should be placed at the disposal of the home to assist in its positive, constructive development.

If it is true that the instructions issued must be based on a realistic appraisal of the situation, taking into account such factors as the shortage of places, personnel, or funds required for alterations, the inspector must nevertheless insist on the observance of those standards which from a social or medical viewpoint represent the permissible minimum, even if this action should involve lawsuits as a consequence. In most cases it will be necessary to devise medium-range programs in addition to short-term solutions. The implementation of the various stages of such a phased program must be closely supervised.

Cooperation with public home authorities and large welfare organizations should be based on mutual understanding. In some countries, as is proposed in the Federal German bill, the supervision of homes can be carried out in cooperation with large welfare organizations. To some extent these organizations practice various forms of self-supervision as well.

The head of the supervisory authority and the inspector himself must be accorded suitable status. They must be senior officials with extensive experience and professional training. This training could be analogous to that for home directors. However, in addition, an inspector must have considerable knowledge of administrative law, administrative practices of authorities, and social gerontology. As in the case of the home director, the inspector has three areas for specialization: administration, social work, or the medico-nursing field.

In general the appointment of trained social workers as inspectors seems to have proved successful. Inspectors should have the opportunity of systematically following further training courses to enable them to keep abreast of scientific and administrative developments in the field of social assistance to the aged and social gerontology. In this respect exchanges of ideas are of great importance at national and international levels.

The supervisory authority must have sufficient staff to enable inspectors to visit homes frequently. One annual visit, as required by some regulations, is not sufficient to provide a reliable notion of the situation prevailing in a home. We should distinguish between visits undertaken as overall inspections and others made more frequently to maintain contact, offer counsel, and handle individual questions and complaints. After every visit a detailed report should be prepared and signed by the home authority or owner and the director.

Inspection must be well planned in advance by the supervisory authority. Clearly defined principles concerning minimal requirements and goals for future development must be established. The inspectors, and preferably the home authorities and directors as well, should be issued clear guidelines. In the course of time, after lengthy experience and preparation, these can be compiled into handbooks which describe in detail the structure and role of a modern home and minimal requirements for its operation. Here too the coordination between administrative experience and scientific findings is desirable.

Before terminating his visit and preparing his report the inspector should discuss the results with the home's leading personnel (these are, depending on the size of the home, the director, matron, dietitian, occupational therapist, social worker, etc.). Where shortcomings are evident, he should propose improvements. Shortly after his visit he should again communicate his proposals to the home in writing, independent of the actual inspection report in which these shortcomings are noted in official form and a date set for their rectification. At the end of the period allowed for correction, the inspector must revisit the home and determine if his instructions have been complied with. If he believes that shortcomings or abuses revealed by his inspection are so serious that they require immediate action in the interest of the residents and the public, the inspector must request the supervisory authority to withdraw the license, temporarily or permanently, close the home, and if necessary, start legal proceedings.

In general an inspection report will be divided as follows: a presentation of the general situation in the home; details on shortcomings or abuses determined by reference to legal requirements; proposals for correcting them; and general remarks, including proposals for planning and development.

The report must be so carefully formulated and the findings on which it is based so reliable and well documented as to stand up to any subsequent legal inquiry which may follow.

Without going into further detail, this outline of a model for the organization of home inspections is attainable in all countries, even allowing for variations according to particular national circumstances. The elements on which this model is based are drawn from rulings presently in force in different countries. In many of them, with the exception of Holland, Belgium, and France, there exists one basic difference with regard to the proposed organizational structure, namely that the responsibility for inspection is vested in lower administrative echelons. Generally speaking, there are no administrative units appointed to oversee the inspection and development of institutional assistance to the aged. In many cases this task merely forms part of the general functions of town and regional welfare authorities. The work is mainly carried out by middle-ranking public servants. Although such officials may possess sound knowledge of local conditions, they often have no special training in social gerontology.

In a report on the supervision and control of homes in Hamburg it was noted that it was not desirable that a social worker who regularly visits a home and is responsible for the welfare of its residents, should act in a supervisory capacity at the same time.[53]

This observation can be applied as a generally valid principle. A basic distinction must be made between active social and administrative work conducted in the interests of the home and the work of an inspector. Exercising both functions at once could result in overlapping.

2. Carrying Out the Inspection

When an inspection is conducted in reference to the minimal requirements for building specifications, sanitary conditions, fire precautions, number and qualifications of personnel, etc., no particular difficulties are encountered. Problems arise when the inspection becomes qualitative, for example, when it is a matter of determining if the director is qualified to cope with his

responsibilities, if care and nursing are carried out conscientiously, or if the nursing staff are considerate and understanding toward residents. Or, to quote another example, if the activities in the home are conducted in such a manner that the residents participate willingly and with enthusiasm rather than from social duty.

Judging the kind of atmosphere which prevails in a home is one of the major problems in qualitative evaluation. A series of attempts has been made to define the concept of "home atmosphere," similar to that made in industry to define a "working atmosphere." However, in the context of this survey which is concerned with problems arising in daily practice, it would be superfluous to attempt a systematic definition of "home atmosphere" on a detailed or comparative basis. Therefore, this term here is used to signify the attitudes and relationships of residents and personnel, individually and collectively, to the home. The home is to be examined in terms of its primary functions, i.e., as as administrative organization, as a center which provides board, accommodations, and care, and as a social organism involving multiple relationships.[54]

How does one measure this atmosphere, especially when a perfect home does not exist? Even in the best of homes, some negative aspects are possible, even probable, especially when one considers that the reaction of the resident to his environment depends to a large degree on his personal state of mind.[55] Nevertheless, to be thorough and conscientious, inspection cannot be limited to formal, specified criteria and neglect qualitative, subjective factors.

An inspector cannot rely solely on his own personal impressions. To a large extent he can form a good idea of the home atmosphere on the basis of his training and experience. There also exist a number of criteria on which he can piece together his overall impressions. This is all the more true when it is considered that the inspector generally has the right in many countries to interview personnel and residents. But these measures are often insufficient to provide an objective basis for his inspection report, especially insofar as it must be prepared to withstand further examination and may involve administrative action as a consequence.

An attempt, therefore, must be made to establish criteria which enable the inspector to present a substantial review of the home atmosphere. Many factors and criteria which are relevant to an effective control of social conditions in a home are currently objects of scientific research, including such examples as:

- –the model of a "good home"
- –criteria for evaluating the need to enter a home
- –[illegible]vation of the need for various categories of h[illegible]
- –adequate job description for the home's director
- –elderly residents as viewed by the director, matron, or social worker
- –evaluation of the quality of care and nursing
- –resident participation in home activities
- –social relationships in the home, freedom, and coercion (the home seen as a "total institution")

There also exist comprehensive investigations at national and regional levels as well as those conducted by individual homes to analyze the residential milieu and the institution's operation. Particular reference is made in this regard to three studies which explore the home atmosphere in the countries cited: (*England*) *The Last Refuge* by Peter Townsend; (*Scotland*) *The Elderly in Residential Care* by Vera Carstairs and Marion Morrison; and (*Denmark*) *Old People Living in Nursing and Old Age Homes* (*Aeldre papleje –og Alderdomshjem*) by Henning Olsen.[56]

Although these investigations offer valuable aids in establishing the quality of the home and the attitudes of its residents and personnel, the inspector is often unable to employ methods of empirical social research involving statistical interviews, questionnaires, and related evaluation tools. He has a limited amount of time to prepare the inspection report and thus must reach conclusions rapidly. Even if they are not based on scientific research, they must be factually accurate. Despite their diverse aims and methods it would be worth examining the question of whether the investigations of scientific research institutes could not be more closely coordinated with the work of public supervision of homes than has been the case.

In evaluating the home's quality of care and nurisng, the personal condition of residents, the psychological effects of home activities, and the general prevailing home atmosphere, the inspector can, however, base his judgments on such factors as:

- –personal impressions gained during the visit
- –interviews with residents and personnel, preferably in the absence of the home director
- –documents and files of the individual residents, particularly those relating their health status and the type of care and nursing they receive as well as their social functioning
- –home reports noting the frequency and type of events and activities and resident participation in them
- –reports by the social worker involved in the home
- –negative factors which in turn presuppose others, i.e., a shortage of personnel may indicate the dangers of overwork, impatience, and insensitivity by personnel, leading to tension and discord; or

again, a meager menu may be a permanent source of discontent and criticism

—complaints, information provided by the home council, and the ombudsman when such an office exists

Thus numerous sources of information now available make it possible for inspectors to form well-founded opinions on the home's atmosphere. In evaluating such opinions it is essential to know in what spirit the inspection was conducted and which factors the inspector considered significant. Experience has shown that there is a tendency among inspectors to place major emphasis on the structural, sanitary, nursing, and administrative conditions of a home and to attribute less importance to social and psychological conditions. This attitude also prevails in almost all legislative bodies as is evidenced by the absence of minimal standards.

The inspector who desires to examine a home in its total functioning and to assist in its improvement must concern himself increasingly with the social and psychological aspects. A useful publication in this regard is published by the U.S. National Institute of Mental Health and contains an expertly formulated and systematic catalog of methods for determining the psychosocial condition of the elderly in a home.[57] Two additional publications of use here are a questionnaire of the C.E.N.R.O. (Cagnes) compiled by Claudette Collot (Paris) and another drawn up by Age Concern (London) concerning the situation in residential homes and chronic long-stay wards.

SUPPLEMENTARY NOTE:

Supervision and Control of Skilled Nursing Homes and Extended Care Facilities in the United States

1. Supervision and control of skilled nursing homes and extended care facilities in the United States are authorized on a twofold legal basis:

(a) Regulations governing social insurance (Medicare) and social assistance (Medicaid) programs authorized by the Social Security Act: These payments to persons covered by insurance and the beneficiaries of social assistance in nursing homes are linked to the minimal requirements laid down for institutions. Thus, regular inspections are essential.

(b) Regulations governing licensing: The granting and renewal of a license is determined by inspection.

In both cases supervision and control are the responsibility of the individual States. Licensing is the direct affair of each State. The supervision of homes within the framework of Medicare and, to some extend Medicaid, has been delegated to the States by the Federal Government.

2. In 1972 the number of inspectors of health institutions in the United States was 1,551. Of these, 198 were concerned solely with Medicare and/or Medicaid; 342 solely with licensing; and 696 (46%) with all three categories.

Up until now no special qualifications have been required for inspectors. Many inspectors are drawn from professions related to care and the medical field. Of these 1,551 inspectors (869 of whom are male and 682 female) there are 545 nurses (35%), 297 attendants (19%), 108 fire inspectors, and 106 home directors.[58]

3. Parallel and complementary to State supervision, there exists the instrument of self-control called accreditation exercised by the Joint Commission on Accreditation of Hospitals. This organization which was founded in 1952 was originally intended only for hospitals. Since 1966, however, it has concerned itself also with other care institutions such as extended care, nursing care, and residential care facilities. Old people's homes, both with and without infirmaries, and geriatric hospitals fall into this category. The parent organizations responsible for these institutions are the American Association of Homes for the Aging (AAHA) and the American Nursing Home Association (ANHA). Both are co-responsible members of the Joint Commission on Accreditation of Homes (JCAH) and its Board.

JCAH has set itself these tasks: the setting of minimal standards for member institutions; upon request, inspection of institutions at regular intervals to determine compliance; and issuance of a certificate to approved institutions. When an institution does not meet required standards, a second inspection is conducted approximately six months later. The certificate issued is valid for one to two years, but its renewal requires additional inspection of the institution.[59]

These brief but meaningful norms set by JCAH are, in addition to their purpose within the organization itself, an important basis for the general measurement of standards in homes. They represent a comprehensive program whose aim is to consider all the essential needs of residents and patients and to adapt constantly to rapid developments in care and nursing. The certificate is proof of the standard of an institution and raises its status. To a large extent it replaces Medicare's State supervision system.

4. The inspector's responsibility for standards in homes and the care accorded to residents makes the subject of his professional qualifications a matter of urgent importance in the United States. As has been shown above, inspectors are drawn to a major extent from professions related to care and nursing and have received no special training as supervisors. Consequently, Federal and State authorities have cooperated in setting

up a special continuing education and training program (training program for health facilities surveyors). At the time of this report courses were given at three universities: Tulane University; the University of California at Los Angeles; and the University of New Hampshire in Durham.[60]

The training consists of four-week courses for surveyors with special emphasis on the techniques of inspection, the correct method of documenting results, the inspector as counselor, and techniques related to programs for improvement.

The official standards of Medicare and Medicaid serve as guidelines for the training. The basic philosophy underlying the training program is the sense of an obligation to contribute in a decisive manner to the improvement of the institutions inspected. It is supposed that the majority of American inspectors will by now have availed themselves of their training facilities.

In addition to general courses, special training courses are given which offer the inspector the opportunity to acquaint himself with individual fields within his area of responsibility but of which he has no specialized knowledge. These special courses, shorter than the general training ones, cover essential aspects of an institution's organization, care, and nursing.

The general and special courses are to be followed by a further program whose purpose is to determine the extent to which an inspector can apply his knowledge of theoretical methods in practice. This involves visits to nursing establishments carried out simultaneously by the inspector and experts in charge of training. Separate reports are prepared and a comparison of the findings and recommendations enables the experts to assess the quality of his work. When results are satisfactory, the surveyor receives a diploma qualifying him as a certified state surveyor. It is hoped that these methods of training, continuing training, and field work will lead in the long run to a standardization of inspection methods and a nationwide improvement of the level of inspection. There appears to be no indication, however, that it is intended to make the appointment of inspectors conditional upon the fulfillment of special professional training.[61]

5. To facilitate inspection from a technical point of view with regard to standards laid down by Medicare and Medicaid, special forms for survey reports were prepared. The inspector marks results of his investigations by means of a "yes" or "no" check in the relevant box. These forms are detailed, comprising 40 to 45 pages, and are a sort of guideline for material to be covered during inspection.

XIII. After-Work Homes in the German Democratic Republic and Institutions for the Aged in Poland

A DETAILED DESCRIPTION of conditions in old people's homes in the German Democratic Republic (GDR, East Germany) may be considered representative of institutionalization of the aged in Eastern European countries in general. Czechoslovakia has already been discussed previously in this report, and Poland will be mentioned briefly at the end of this chapter. Particular attention is given to the GDR because this country has well-developed legislation and administrative practices in assistance to the elderly.[62]

Due to World War II and its toll on certain age groups the decline in the birthrate during and after the war and to emigration after the war, the GDR has a high proportion of older people. In 1968 the percentage of persons of pensionable age (65 for men, 60 for women) in relation to the total population was 19.2%. This is expected to rise to 20.8% by 1974. In most other countries this figure does not exceed 15%. Of the elderly in the GDR approximately 50% are over 70 years of age, and by 1980 this percentage will rise to 64%. Furthermore, 26% are over age 75, and 11% over age 80. Of all persons of pensionable age, 70% are women, and 42% of this total figure are unmarried women. Investigations among a representative cross-section of old people revealed that about 10% to 12% need care and attention in some form. With the continuing increase in the number of the aged, this figure is expected to reach 16% to 18% in the next few years.

This politico-demographic situation poses important socio-political problems for a state which is still in the formative stage. The GDR seeks solutions within the framework of its socialistic ideology emphasizing the collective responsibility and solidarity of all its citizens. The constitution of April 6, 1968 guarantees the elderly explicit rights in Article 30: "Every citizen of the GDR has a right to social welfare care in the case of age or invalidity. This right is guaranteed by the increasing material, social, and cultural provision for, and care of, elderly and invalid citizens."

In accord with these guarantees as well as preceding resolutions of the 6th and 7th National Conferences of the S.E.D., the Ministerial Council of the GDR published its Principles and Measures (*Grundsaetze und Massnahmen*) on May 30, 1969. This document outlines a program designed to improve the medical, social, and cultural care of the elderly, their level of participation in public life, and the main organs of geriatric research. It includes an overall plan for the next few years which specifies the obligations of the state, industrial, and local authorities to help implement it and at the same time projects future developments.

On the basis of this document a Framework for the Realization of Principles and Measures was drawn up on July 24, 1969 among the Ministries for Health and Culture, the State Committee for Physical Culture and Sport, the National Council of the National Front, and central social organizations such as the People's Solidarity Movement, the Free German League of Trade Unions, the Red Cross, the Democratic League of Women, and the Free German Youth and Pioneer Organization. The purpose of this agreement is to "muster all the social forces of our socialistic society to establish a system of varied, coordinated, and interconnecting measures of practical care for aged citizens and those in need of care . . . The most important objective to be achieved is a situation where every elderly citizen feels that he is esteemed and even still needed; that he is secure and feels the affection and humanity which come from the close personal relationships that exist in our Republic."

Although the measures taken by the GDR to aid the aged correspond to a large extent to forms of institutional and non-institutional assistance for the elderly in other countries, the following characteristic details of its program should be noted.

An old person who has retired from a particular firm must still be included in its social and cultural program.

Particular emphasis in medical care is laid on prophylactic treatment and health education, particularly discussions on food, proper clothing, and achieving a healthy way of life through sports and proper bodily care.

A system of service flats now exists and will be substantially increased. There is generally a nurse in

residence and residents may dine in a nearby communal restaurant.

A system of domestic help has been established successfully at the local level with assistance from the People's Solidarity Movement, an organization with about two million members.

This Movement, together with voluntary workers from other organizations, is also responsible for conducting at the local level systematic, regular visits with the elderly to become acquainted with their needs and desires. Information obtained from these visits is used to determine what types of assistance and nursing are required. It also reflects their general social status and thus indicates what socio-political measures must be enacted and implemented.

After-work homes (*Feierabendheime*) also fall within the context of these measures listed previously. These homes serve as residential centers for the care and nursing of individuals and as care centers for older people living in the neighboring district.

The total number of places in homes in the GDR is approximately 110,000, of which over 80% are state organizations. Thus approximately 3% of all old people live in homes. The proportion of nursing places has increased considerably in the last few years and now totals over 50%. The number of entry applications continues to far exceed the number of available or vacated places. It has been estimated that in the future about 4% of all the elderly will reside in homes, and of this number 60% will be accommodated in nursing homes and in infirmaries.

The conditions in after-work homes are governed by regulations issued on February 23, 1956 and March 15, 1968 and covering a large number of questions.

1. Care of the Elderly in Homes and Nursing Homes

The definition and character of these institutions are similar to those in Western European countries. After-work homes are residential centers for older people who are still capable of coping with the simple demands of daily living but have difficulty in running their own households. The homes have a predominately residential character and are designed to offer residents the amenities of a modern life style. The elderly are provided with accommodations which include heating, lighting, and housekeeping services, board, medical care, and cultural facilities. All pay the same amount toward the cost of their care and all have equal rights. They receive a sufficient amount of spending money to meet their personal needs.

Nursing homes are institutions for accommodating persons in need of nursing care, particularly the elderly who do not, however, need constant medical treatment.[63]

The opening or closure of homes, as well as any modification of their capacity, are the responsibility of the regional, district, municipal, or district municipal councils. In such cases ratification by the regional council is necessary. This council also provides supervision and control of homes and is responsible for issuing guidelines to local councils which generally operate these homes. Before a new home is opened, the regional council must ensure that it is a modern, up-to-date facility designed to provide, on the average, about 160 home places for every 20,000 inhabitants. In deciding on its site care is taken that it provides direct communication with main residential areas and that the neighborhood offers the necessary communal and care facilities. Homes, it is felt, should not cater to more than 200 residents even though larger establishments may be more viable economically. With regard to requirements for structural, sanitary, and hygienic conditions, there is little difference between the norms applied in the West and those in the GDR.

All accommodations in after-work homes must consist of single- or double-bed rooms, reserving at least 40% of the home's total capacity for nursing cases. As in ordinary homes, nursing homes and geriatric hospitals must have dining rooms and areas for socializing, both decorated with plants and flowers. Homes should have one to three centrally located rooms equipped for medical examinations and treatment. For providing physio-therapy the nurse must have at her disposal the apparatus for short-wave therapy, inhaling devices, heating pads, sterilizer for infections and instruments, medicine cabinet, and medical baths (in larger homes). Elevators and call systems are also required in homes.

In the years after World War II a number of institutions were housed in buildings originally constructed for other purposes. Consequently, structural alterations are now required in many of them.

2. Entry into a Home

Application for entry into a home must be made to the municipal or district municipal councils. Applications are first examined by voluntary workers, then passed on to the district council for a decision. For some homes, however, the power of decision can be delegated to the competent district municipal council or the home director. Aside from consideration of the applicant's well-being the most important factor weighed is achieving optimal occupation, or utilization of the home. For this reason much value is attached to an expeditious decision-making procedure for handling applications. This, together with judicious distribution of residents within a particular district, has enabled some homes to reach an average annual occupation of 99.5%. In exceptional cases, such as the need for providing

provisional accommodations during the winter, emergency beds can be installed.

Entry to after-work homes is permitted to men over age 65 and women over 60 who are no longer able to run their own households and have no relatives to care for them. Entry only occurs if the potential resident agrees with this measure. Citizens who have distinguished themselves in public service are given preference. However, the fact that a person has superior financial resources at his disposal is no criterion for determining his place on the list of applicants.

The same priority criteria are valid also for governing entry into nursing homes which are designed for these categories:

- Persons who need regular nursing care, but not constant medical treatment.
- Those aged 18 or above who are mentally or physically handicapped but not in need of psychiatric care.
- Persons suffering from foreseeably incurable ailments or impediments, are similar in condition to the chronically ill, are completely bedridden, but who do not require constant medical treatment.

The ratio of personnel to patients in nursing homes is set at 1:7 or 1:8.

3. Cultural Activities

Great importance is given to cultural activities in a home and these are explicitly listed and described in the regulations.

Every month the home management must devise and post a program of social events.

At least once a month a visit to the cinema and a subsequent discussion of the film is to be arranged.

Residents must have access to the main daily and weekly newspapers and magazines. Once a week a newspaper review is to be organized.

A weekly notice board of topical events must be compiled and posted. This wall-newspaper is to be set up, as much as possible, by the residents, under the guidance of the home management.

The library must contain at least two books per resident and be constantly expanded.

Attempts must be made to create singing or cultural groups and activities in conjunction with those from firms, schools, state children's homes, and other organizations. In this regard sponsorship agreements can ensure regular cooperation.

A program of cultural activities, geared to the special circumstances of the institution, must also be established in nursing homes. Every bed should have radio headphones to enable an infirm occupant to participate in social events held in the home.

4. Medical Care

The health department of the regional council is responsible for the provision of medical care through its regional medical officer. In after-work homes this responsibility belongs to the home's doctor, although this in no way limits the right of the patient to choose his own physician. If the home is under the supervision of a state polyclinic, peripatetic medical services institution, or others similar, medical care will be provided by the competent doctors in the form of consultations. Medical care must cover factors related to the elderly, such as diet, physical exercise, work and leisure activities.

Because cohabitation in larger communities requires certain hygienic conditions, special regulations were issued on May 15, 1968 containing minimal requirements and administrative instructions for hygiene in after-work and nursing homes.

5. The Cost of Board and Accommodations

Residents must contribute monthly toward the cost of their upkeep. In 1968 this was 60 marks each in state institutions. Extra charges may be made for improving standard meals. These added costs are uniform for all residents and may raise the amount of their monthly contribution to 90 to 105 marks. The funds are generally to be provided by the resident's financial resources, revenues, and pensions. When he cannot support himself or his spouse, these fees must be paid by members of his family responsible for his upkeep or by public assistance. In cases where residents receive an honorary pension for particular services to society, this sum may not be deducted from his residence contribution or from his allowance.

6. Creative Activities in a Home

Residents should be given the opportunity to pursue a creative occupation in accord with their own desires. Special implementation regulations issued by the Ministry of Health, together with heads of competent state organisms and the executive committee of the Free German League of Trade Unions, govern matters related to this area. The underlying principle is to recognize that in a home the organization of appropriate voluntary work or leisure activities for residents is an essential part of care. Useful activity for residents is encouraged in such major areas as:

- Tasks of a social nature, inside and outside the home.
- Assistance to the home itself, outside of the framework of the home's regular work program.

—Work in offices, plants, administrative organizations, and institutions inside or outside the home.

—Hobbies which benefit residents individually or collectively, or the community in general.

The type and duration of the occupation pursued is left to the choice of the resident. The home must oversee this occupation and ensure that it is feasible with general conditions as well as the physical and intellectual faculties and health of the resident. Undertaking any occupation requires approval from the doctor and home director. But a person's willingness to pursue an occupation must be acknowledged in some form.

The regulations provide for various forms of remuneration:

(a) For the fulfillment of tasks of a social nature in the home and for assistance in areas outside the home's regular work program, premiums in recognition of services rendered may be made either in monetary form or in kind. Here the principles laid down for the state and national economy budget on the subject of remuneration are applicable. Thus residents may normally receive up to 30 marks a month as remuneration. Under certain circumstances larger amounts may be paid, but should be uniform within a particular district. The amount of the premium spent for work in the field of cultural activities is to be determined in conjunction with the home committee. A deduction of these premiums for payment of the resident's contribution toward his upkeep or from his allowance is not permitted.

(b) An occupation within the framework of the home's work program is placed on a legal employment basis. Consequently, remuneration is based on the normal pay for this kind of work. In this regard it is a matter of filling vacancies within the framework of state planning, where a position is vacant due to a shortage of personnel or where the person occupying the position can be employed elsewhere. Residents thus employed are still considered as residents. No deduction for the payment of their upkeep is to be made for wages of up to 75 marks per month; however, 50% in excess of this sum is retained.

(c) If the occupation is concerned with major repair or maintenance in the home, work which would otherwise require outside help, remuneration may be paid (resolution adopted on August 5, 1960 by the Committee on Labor and Wages concerning principles for the solution of socio-economic questions with regard to the realization of the resolution adopted by the Ministerial Council on February 11, 1960). With regard to the question of deductions for the payment of upkeep, the same regulations apply as in (b) above.

(d) When a resident works for outside enterprises, administrative organizations or institutions, with the approval of the home director, the resident may retain up to 30 marks per month of his wages; above this amount, 50% is deducted by the home.

(e) Collective work conducted by residents within the home on behalf of outside enterprises, etc., is based on service contracts drawn up between the home management and that of the organization involved. Thus no direct employment relationship exists between the individual resident and the employing organization. Regulations governing deductions in relation to the amount of the resident's contribution to the home and his spending allowance are as outlined in (d). Work carried out by residents as part of the National Reconstruction Program may be remunerated to up to 50% without any deduction.

(f) It sometimes happens that the efforts of residents may result in an increase in the home's revenue or a savings in cost and the local Committee of the People's Representatives (*Volksvertretung*) has placed the surplus at the home's disposal. This money can, with the approval of the home committee, be used for the financing of projects beyond the scope of the fixed budget, such as for social and cultural activities, and for the remuneration of those residents who were instrumental in producing the surplus. The amount of such remuneration is not fixed by any limits and is not subject to deduction for upkeep and spending allowance.

7. Home Democracy

In accord with the directives issued on February 24, 1956 on the framework of homes regulations for state after-work homes and nursing homes, every home must issue internal regulations in cooperation with the home committee. These rules must form the basis for mutual respect and consideration which are required by many people living together as one. By signing a copy of these rules every resident acknowledges his obligation to respect them. Should a resident ignore these rules, he may receive a warning from the director, the home committee, or a resident assembly. In the case of repeated offenses a resident can be expelled as a last resort. This final action is subject to ratification by the local council and can be effected only after the residents have been informed of the situation in a general meeting and have adopted a position on the issue. Expulsion is also subject to the further condition that acceptable alternative accommodations must be found for the offender.

In order to protect the interests of the residents, a home committee and a kitchen committee must be

elected in each home. According to the size of the home, the home committee will consist of from three to six members. In homes with more than 300 residents, this committee can have as many as 12 members.

The kitchen committee is reelected every three months. It consists of two or three members, one of whom is a member of the home committee. Its task is to cooperate in preparing a menu and supervising the preparation and distribution of meals. It is concerned not only with ensuring that each resident gets enough to eat, but also that meals are nutritious and varied and that the type of food requested, special diets for diabetics and others, are duly prepared. It also seeks to ensure that meals are presented in an appetizing fashion.

A general assembly of residents must be held once a month. Every three months the director must present an account of appropriations used in the home's budget for board and for social and cultural activities. In the general monthly meetings explanations are also given of the most recent political events, laws, and directives, and of any problems which may have arisen in the home.

8. Objections and Complaints

Every resident has the right to make suggestions, requests, and complaints to the director or the state authorities. When a complaint cannot be remedied by the home committee or director, it is referred to the home's competent legal authority (i.e., the district council or the district municipal council). A decision on it must be made within two weeks. A complaint does not suspend a decision on the measure to which an objection has been lodged; however, its implementation can be postponed.

9. Fire Safety

Every home must elect a resident to handle fire safety measures, as well as several assistants for him. A plan for home evacuation in case of fire must be prepared. Personnel and residents must be briefed on these precautions and on fire safety regulations every six months. The resident in charge of fire safety and his assistants must receive instruction from the director and the fire brigade, and an annual inspection of the home should be made by the latter.

10. Domestic Economy

The regulations of February 23, 1956 and March 15, 1968 and the associated implementation regulations give no rulings on the vast field of domestic economy. Rather, the Ministry of Health's Guidelines for Administrative Work are applicable.

11. The Comparative System (*Vergleichsbewegung*)

The purpose of the comparative system in homes as in other collective organizations in the GDR is to develop a spirit of creative initiative for the care of elderly citizens among the personnel. With its central notion of socialistic community work, it forms the principal instrument for the fulfillment of the annual and long-range plans in the fields of health and social work. At the same time it is the most comprehensive method for uniting all personnel in pursuit of common goals. Thus planning for homes within the framework of national political economy should set an increasing number of goals to be achieved in specifically designated areas concerning the improvement of these institutions for the aged. The manner in which these goals are to be met is spelled out in a collective contract between the home management and the management of the employees' union. Some examples of tasks especially emphasized are the establishment of hygienic regulations, the promotion of useful and creative activity, improvements in nursing care and cultural activities, aesthetic improvement of the home, and the provision of meals appropriate to the age of residents and in accord with their tastes.

Through this system, the personnel collectives from various homes compete for the honorary title of "Collective of Socialistic Labor."

Work and research groups are also "innovation collectives" whose tasks lie principally in the field of "rationalization," e.g., the development of labor-saving devices or technical aids for residents. Apart from the competitive element, these groups are intended to develop humanitarian solidarity through communal labor. Residents are also involved in these tasks. In many homes there are committees of residents and personnel who work together to improve medical and nursing care, cultural activities, social relationships, and upkeep of home and grounds.

Fostering cooperation among personnel by competition is also related to a possible increase in income (instructions on the financial remuneration of work in state after-work homes and nursing homes of October 8, 1969). An increase in revenue gained by intensive work by personnel or by a savings in cost should to a certain extent be shared in favor of the personnel concerned. Criteria of achievement and quality are fixed in order to measure the success of a home. The main achievement criterion is the home's annual average utilization figure. Qualitative criteria are based on the standard and extent of individual care. An increase in the level of achievement exists when the quantitative and qualitative criteria fixed in the household budget are adhered to and the financial goals set are surpassed, i.e., state subsidies have

not been completely expended due to increased income or decreased costs.

In such a case the home receives at least 40% of the savings involved. This amount should be used partly for the benefit of the home itself and partly as recompense to the director, personnel, and residents involved.

12. Estate of a Deceased Person

When a resident dies, his estate and effects are to be placed in security by the management. Together with two members of the home committee, the director should make an immediate inventory.

13. Private Institutions

In 1968 there were approximately 17,000 places in private institutions. These are run primarily by religious organizations (Caritas and Innere Mission). Subsidies paid to residents in need of assistance—for board and accommodations, clothing and personal expense allowance, holiday funds, social insurance premiums—correspond to those paid to persons in state homes. The legal status of private homes is governed by regulations issued on February 23 and 24, 1956 and on March 15, 1968. Entry into these homes is also based on the degree of urgency. Contrary to the situation in state homes, it is generally the home itself which admits applicants, but the district or municipal councils have the right to place residents there as well.

Contributions by residents for board and accommodations are set on an individual basis for the homes but on a uniform basis for the residents of a particular home by the local council. Generally speaking, this amount is equal to that charged in state homes.

14. Inspection of Public Homes

Homes ... to be inspected quarterly by the legal home authorities (district or municipal district councils) in the presence of the director, his deputy, and a member of the home committee. When necessary, the competent departmental experts are to be involved also. Inspection findings are to be entered into an inspection book kept by the home. During the inspection special attention is to be paid to the condition of the rooms, the home management, the presence of adequate sanitary and hygienic facilities, and provision of suitable cultural activities.

An inspection should also review the extent to which planning has been put into effect and examine the situation with regard to medical care, quality and presentation of food, overall home atmosphere, leisure occupations of residents, observance of fire, hygiene, and work regulations, administration of residents' property, promotion of labor initiative (particularly in reference to community work), working conditions for personnel, regularity of resident assemblies, and cooperation among the director, the voluntary workers' commissions, the home committee, and the kitchen committee.

Results of the inspection are to be evaluated in an assembly of the residents. The director and the home authorities are responsible for the correction within the time specified of any shortcoming or abuse entered into the home's inspection log.

15. Inspection of Private Homes

Private home inspection is governed by Par. 8 of the regulations governing the improvement of the benefits of state social welfare for citizens in need of assistance who are resident in private institutions, issued March 15, 1968. As prescribed, the personnel of state organisms are obliged to conduct regular supervision to ensure that the funds provided from the national budget are properly used for the board and accommodations of needy citizens. Upon presenting his credentials the official delegated by the state authorities has the right to enter the home at any time.

The explanatory notes on the regulations state that experts from other departments may be involved in inspections in addition to members of the Permanent Commissions on Health and Social Affairs who must participate. Such inspections are not intended to be formal state control and are not meant to intervene in the legal constitutional rights of religious orders. Their purpose is to discuss the accommodations, board, and cultural activities provided by the home with residents who receive support from the state.

In meeting this responsibility, inspection of the relevant documents will usually be required. This applies especially to those private homes which have increased board fees in order to upgrade the quality of meals or which have readjusted the fees charged to residents for their keep. State-supported residents have the right to be informed of inspection results.

16. The Home as a Center for Neighborhood Elderly

Homes in the GDR have an important social role in addition to their responsibility for the physical, intellectual, and spiritual well-being of their residents. They serve as a social, cultural, and medical center for the elderly living nearby (compare the Ministry of Health guidelines of March 16, 1970).

As a social and cultural center the home can promote contact between residents and the aged living outside. The latter should be invited by the home to participate in cultural events, evening discussions, excursions, and festivals. The facilities of the home, such as the library,

the television room, and cultural rooms, are at their disposal. They can take part in the home's activities and work therapy program. The home is also a natural center for sporting activities.

As a medical center the home makes available therapeutic facilities such as baths, ray treatment, and services such as chiropody and dietetic foods.

In other areas of service the home can provide the elderly living nearby with laundry services, the loan of bed linen to persons in need of nursing care, meals delivery, emergency beds to house single people temporarily (e.g., during cold periods), health education and counseling, and general geriatric counseling services.

17. Institutions for the Aged in Poland

In Poland private welfare homes for old people exist, operated by Roman Catholic religious orders. These homes are granted a subvention from the government to ensure a proper standard of service for pensioners. There are now functioning nine autonomous homes run by various religious orders and 51 such homes controlled by the Catholic Association "Caritas."

The Government's right to supervise and control old age homes is derived from the fact that they are subsidized by the State and that suitable applicants are directed to them by local authorities. The management of the subventions granted by the Government on a centralized basis to the Caritas Association is supervised by the Ministry of Health and Social Welfare.

The supervision and control is exercised by the local Health and Social Welfare Departments in the counties (*voivodships*). It covers all activities of the homes and is designed to check the standard of living conditions offered to residents and the correct use of state subsidies to the home.

A similar procedure of supervision and control is extended to welfare homes run by the Government.

The regulations, which refer to home activities and are verified upon inspection, are published in the legislative periodicals of both the government and the respective ministries.[64]

XIV. Old People's Homes in Scandinavia

AS A RESULT of high taxation, the national revenues in Norway, Sweden, and Denmark are so distributed that the state and local authorities have relatively large sums of money to use for cultural and social programs. Thus, in differing degrees according to their respective economic situations, these three countries have been able to establish and maintain a network of schools, kindergartens, and public educational and social organizations which can be considered as models not only because of their modern practical equipment and facilities, but also because of their progressive and humanitarian spirit. This is true as well of institutions for the aged.

A detailed review of these institutions, instructive though it would be, is outside the scope of this report. But the following is a summary of the main points concerning the structure and legal situation of homes in Scandinavia.

The high standard of architecture and furnishings characteristic of Nordic countries makes these modern buildings distinctive and impressive.

The rooms, mainly singles, are always equipped with private toilets and showers, sometimes with hip baths, in these newer buildings.

Satisfactory nursing standards are guaranteed by the fact that in comparison to other countries there is a high ratio of nursing staff to residents.

The layout and facilities of the homes are in large measure adapted to the needs of residents. Thus there are, for example, many communal rooms on all floors (and in nursing homes as well), guest rooms for visiting relatives, restaurants and/or cafeterias for guests, residents, and personnel. In large homes or home complexes there are banks, post offices, and small shops where residents can purchase a variety of articles for daily use. There are also hairdressing and chiropodist facilities. These services are provided either free of charge or at low cost.

Efforts are made to enable residents to keep in contact with the outside world. There is a regular, organized transport into urban centers. If a home is located in a modern suburban area, facilities are provided to ensure that residents, even invalids in wheelchairs, can reach shopping centers in comfort, despite the traffic.

Special emphasis is placed on rehabilitation and occupational therapy. Everywhere there are large and well-equipped rooms for physiotherapy, often also indoor swimming pools and saunas. Much regular work is carried on in large workshops under the supervision of ergotherapists.

Homes are often centers for other old people in the district, in particular serving as day homes where the elderly can spend the day, dine, and use the facilities, and as a center or club providing a restaurant, workshops, public education courses, and physiotherapy rooms.

As elsewhere, different categories of institutions are often associated with one another. There are combinations of service flats, homes with nursing homes, or all three together. In most cases old people's centers, clubs, or day homes are incorporated into such combinations.

Mention should be made here of the service flats with nursing care which have been developed by the Danish organization *Ensomme Gamles Vaern*. The Peder Lykke Centret in Copenhagen is an impressive example of this concept. It consists of a large building with 240 service flats and a nursing home with 152 beds. In addition it contains a large day center which is visited weekly by 600 to 800 old people from surrounding areas. The purpose of this institution is to enable the elderly to live independently by assisting them with health supervision, care, and nursing. Each apartment has 1 1/2 rooms, a kitchenette and bathroom with shower and toilet. Each is also adapted for use by persons in wheelchairs if necessary. In the center of the building is a restaurant (which also delivers meals to individual rooms), social and hobby rooms, and gymnastic facilities.

The residents of service flats can participate in the activities of the center associated with the building and thus maintain contact with other elderly from outside.

However, it is the organization of nursing and care which is above all else characteristic of this institution. Every apartment has a telephone with which a person in need can contact directly the Central Aid Department. This department with an adequate number of nurses and

nursing attendants at its disposal, is responsible for providing nursing care in case of acute illness and necessary help, e.g., injections, in case of chronic illness. When needed, domestic help is also available. A certain number of rooms are kept available for use by residents who suffer acute illnesses and require intensive care on a temporary basis.

This type of home dispenses completely with the usual functions associated with an old people's home. In fact, Jørgen Theisler, director of the *Ensomme Gamles Vaern* which is responsible for the Peder Lykke Foundation, is of the opinion that a combination of service flats with nursing care, nursing home, and day center will make superfluous the old people's home as intermediary stage.[65]

In Scandinavia democracy is much more a life style than a mere political principle. In the home this is illustrated by the personal relationships among the director, personnel, and residents. The general tone is one of politeness, freedom, and relaxation. Residents have apparently no hesitation, when they feel it necessary, to express their personal wishes, advancing suggestions or lodging complaints. The general public in the surrounding area also takes an active interest in the life of the home and the well-being of the residents.

The high standard of Scandinavian institutions for the aged in all areas–construction, nursing and care, and social relationships–raises the question of whether state supervision and control are required. They certainly seem to be a far less urgent necessity than in most other European countries. This is due in part to the fact that the solid, traditional democratic attitudes make consideration of public opinion essential, and the corrective impact of public opinion is often more effective than state supervision and control.

Despite this favorable situation, the various governments and parliaments view supervision of these institutions as necessary. Their attitude is based on the knowledge that many of these homes have not yet reached the standard of modern homes previously outlined. As a result, Norway, Sweden, and Denmark have passed legislation and issued regulations in recent years to ensure that homes are brought up to standard or helped to maintain and improve this standard.

The laws and regulations are: in *Norway, Kgl. Sosialdepartement–Lov om Sosial omsorg av 5. juni 1964* in conjunction with *Rundskriv. nr. 10 om tilsynet ved aldershjem*; in addition, Guidelines for Old People's Homes (*Normer for godkjenning av aldershjem*) were issued in March 1971 after preparation by a commission of experts on instruction from the Ministry of Social Affairs. In *Sweden: Råd och anvisningar från Socialstyreisen: Planering av ålderdomhem, Augusti, 1970; Enskilda vårdhem, Februari, 1971*. In *Denmark: Ved lov nr. 239 af 7 juni, 1972*, in conjunction with *Socialministerets Cirkulaere om omsong for invalide pensionister og folkepensionister* of December 18, 1972, in particular Art. 14ff.

Legislation in these countries naturally differs in many details, but does agree on two basic principles: the delegation of responsibility for these institutions to local authorities, and the cooperation of the public in the supervision and control of homes.

1. Norway

Nursing homes are considered health institutions and at present are covered under the health regulations of the Hospital Act. In 1972, however, special guidelines for nursing homes were issued and special regulations are currently being prepared. At the moment nursing homes are supervised by the Health Board, but apart from this there is no other form of control. The planning of new homes is part of the national health program and the opening of new homes must be approved by the Central Health Board. According to the Act of June 19, 1970, the opening of an old people's home is subject to the approval of the authorities. Although this Act has not yet become effective, guidelines based on it have been issued and applied. No legal rulings exist on the question of the training and continuing education of the director and personnel. A committee appointed by the Ministry for Social Affairs is currently preparing proposals in this regard.

Supervision and control of institutions for the aged is governed by the instructions issued by the Ministry on April 30, 1969. According to them, local welfare committees appointed by the local authorities must form a supervisory committee for each home. Each home must be visited by its committee not less than six times a year. After each visit the committee must present an inspection report to the local authorities. The welfare committee is also responsible for taking any administrative steps deemed necessary as a result of this report. In addition, the inspection of the medical and sanitary conditions must be made by the Public Health Officer.[66]

2. Sweden

Here the Ministry of Health and Social Affairs has delegated administrative responsibility for health and social affairs to the National Board of Health and Welfare. The members of this Board are mainly representatives from political parties, local authority organizations, and other major social groups so designated by Parliament. Within the framework of this Board there is a special department concerned exclusively with the program of aid to the elderly.

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As an organism of this Board this department represents the supreme authority in affairs affecting old people's homes. It is responsible for functions pertaining to licensing and, to a certain extent, control, and for questions of planning on a general and individual level.

The supreme authority for supervision and control of nursing homes, to which private homes for the elderly also belong, is, as we have seen, the National Board. At a county level inspection is conducted by the public health officer together with a consultant from the state welfare authorities. At a local level regular inspection of the social aspects of a home is carried out by a social welfare committee of the local authority.

Private homes must be approved by the National Board. The license must contain specific information, such as the name of the director, the maximum number of residents, etc. The director's competence to assume this position is determined by the Board. Further conditions for the license include the requirements that the proposed home have adequate rooms and facilities and that the personnel provide adequate care and nursing. If shortcomings or abuses are revealed, the board has the right to close the home until corrections have been made.[67]

3. Denmark

The planning of new homes or the alteration of existing ones require the prior approval of the Ministry of Social Affairs. The following regulations apply in particular to Denmark.

If the local authorities wish to avail themselves of the services of a private home, this is possible under these conditions:

- The home must accommodate not less than eight old age beneficiaries; under certain circumstances, depending on the date of construction (1964 or 1968), this number must be either 10 or 12.
- When a home was constructed in 1964 or 1968, it must belong to a welfare organization which is nonprofit.
- If these conditions are fulfilled, an agreement is made between the home and the public authorities in which the amount of fees paid daily by the public authority for each resident placed there is fixed.
- The essential principle underlying such an agreement is that the ruling concerning residence fees and benefits should correspond to that of residence in local authority homes (this is also valid, for example, with regard to the amount of the resident's share in spending allowance, clothing subsidy, etc., in those cases where a resident has private means at his disposal).

The 1968 Act empowered local authorities to constitute resident committees having two main functions: to involve the residents in home affairs and to handle presentation of any complaints to the local authorities. In this respect, residents have the legal right to a hearing without any obligation to contact the director beforehand. However, most complaints are resolved by discussions between residents and the director without recourse to more formal procedures. Nevertheless, the fact that residents have an alternative course of action can, under certain circumstances, have a positive influence on discussions with the director.

Local authorities inspect the homes at regular intervals to ascertain if residents are receiving proper attention and care. In those homes with which an agreement has been made, inspection is conducted by a supervisory committee delegated by the competent local authorities. This committee consists of three to five members who do not necessarily belong to the municipal council, and, in fact, it is generally expected that not all of its members must be council members. The main conditions for membership on this committee are a particular interest in the field and some form of qualification for the task. For medical and hygienic questions the services of the public health officer are to be employed. This officer may decide an issue himself or refer it to the competent authorities, such as the local housing committee, health committee, or fire department.

Even those homes with which no such agreement has been negotiated, particularly small homes with less than 8 to 12 residents, are regularly inspected by the public health officer. This is especially important because no supervisory committees exist for these homes.

The health committee, which is responsible for overseeing local hygienic conditions, is designated by the local municipal council. With regard to old people's homes, its responsibilities are: to carry out regular inspections of homes and nursing institutions; to be informed of the opening of a home as well as any change in its owner or director; to conduct inspections without prior warning, and where shortcomings or abuses are found, set a deadline for corrective action. If at the end of this specified time the required improvements have not been made, the home can be closed. The public health officer must also make unannounced inspection visits for the same purposes as the health committee.

According to an official report, the development of nursing homes is occurring along these lines: there are two categories of nursing homes (A and B). Type A serves as a center for treatment of lengthy illnesses and is located near a hospital whose doctors are at its disposal. When a patient has recovered sufficiently, he may return home or into the care of relatives, or he may enter Type B, a nursing home which accommodates the elderly and

infirm who do not require intensive medical care. As yet there is not enough evidence to make any conclusive evaluation of this system for dividing nursing home care, but it would seem that it is successful.[68]

4. Finland

The duties of public authorities in this country concerning the control of private old people's homes are defined in the Maintenance law of 1936 (Art. 59).

The main responsibility for control of residential care lies, on the governmental level, with the National Social Board, and on the provincial level (in all 11 provinces), with the Department of Health and Welfare.

On the National Social Board there are two inspecting administrators, a Chief Inspector and an Inspector. The education and training for these positions has been established by law and includes the degree of Master of Social Sciences or another comparable university qualification. Their functions are to provide general advice, instructions, and regulations for the care of the elderly and to inspect various institutions serving them.

The main responsibility for inspection of these institutions rests with the Department of Health and Welfare in each province. Each department has a social inspector and a social advisor. Both must have a qualified university degree and be experienced in social welfare.

Inspection occurs at least every two years at these institutions, each of which must have a board of trustees. In accord with instructions from the National Social Board, the inspector must note the following details:

- information on the community where the institution is located: number of inhabitants, tax rate, number of persons over 65, number of beds in different hospitals owned by the community (central, local, mental hospitals, and hospitals for the mentally defective), number of houses and accommodations for the aged owned by local authorities, knowledge of home services.
- administrative structure and procedures of the home.
- plant facilities, i.e., kitchen, sleeping quarters, hygienic and sanitary conditions.
- home personnel, i.e., number of employees, number of nurses, assistant nurses, therapists, skilled workers.
- number of beds and patients, medical care, diet, cleanliness, mental health care, recreational activities.

After the inspection the social inspector must send a copy of his report to the local authorities and another to the National Social Board.

The standards concerning buildings, hygienic-sanitary conditions, and personnel are now being re-examined and modernized, with the goal of offering every older person in the home a single room with a sanitary cabinet, and providing more qualified staff for therapeutic care.

In each community there must be a qualified fire safety staff, as is required by law, for social institutions. They must inspect security measures at each once a year and file a report.[69]

XV. Summary and Proposals

NOW THAT WE HAVE reached the end of this survey, what are its results? In the introduction emphasis was placed on the socio-political aspects of the report. Its purpose, stated there, is, by means of a comparison of the various legal regulations in European countries and the citing of norms and requirements, to make some contribution toward the task of making life in old people's homes compatible in every possible way with the physical and spiritual needs of their residents. The report concludes with some proposals as to the manner in which legislation and administrative practices can contribute to this future positive development of homes.

1. Legislation and Regulations

(a) Laws and regulations should, as much as possible, give concrete rulings on the specific aspects of home organization and thus enable control and supervision to be conducted on the basis of uniform standards.

(b) Present legislation in most countries makes no stipulations in such important areas as care and nursing, food, rehabilitation, social activities, and the professional qualifications of the home director and personnel. These omissions should be corrected.

(c) The publication of official handbooks and guidelines on management and supervision is desirable.

(d) Legislation and regulations on standards should be based on the findings of medical, gerontological, sociological, and psychological research. Attempts should also be made to establish concrete forms of cooperation between research and administrative practice. International and national conferences and all other relevant forms of contact should be arranged for public officials responsible for formulating and implementing legislation in order to promote the spread of information and the exchange of ideas.

2. Licensing, Supervision, and Control

(a) Licensing, supervision, and control are in principle obligatory in every country; however, the form and extent of their implementation vary considerably. Inasmuch as the problems associated with old people's homes are similar from one country to another, efforts should be made to arrive at uniform legislation in these matters.

(b) The fact that a home functions under the auspices of a public or voluntary welfare organization does not always guarantee the standard of care provided there. The requirements for licensing and supervision should extend to all categories of homes, as is now provided for in some countries.

(c) The state and the public and voluntary welfare organizations which operate homes should cooperate in supervision. However, complete delegation of inspection responsibility to these public and voluntary welfare organizations is not recommended.

(d) Inspection authorities should be responsible for large areas containing at least 50 homes. In this way supervision can be exercised by expert, specialized officials.

(e) Licensing and supervision should be linked constructively with counseling on future improvements and development of a home.

(f) Inspectors should be senior officials, knowledgeable and experienced in social gerontology and administration.

(g) There should be a sufficient number of inspectors available to make possible regular and frequent visits to homes. A distinction should be made between an annual general inspection and regular visits made to gather information and maintain contact.

3. Planning

(a) National, regional, and local levels of planning should be coordinated with the work of public, voluntary welfare, and private organizations involved in operating homes for the aged. Such coordination could take the form of state commissions for aid to the elderly and old people's institutions in which all interested parties are present.

(b) All programs of aid to the elderly—institutional, semi- and non-institutional—should be considered as one entity. Solutions enabling old people to live independently for as long as possible are to be preferred on principle. In the future, therefore, greater emphasis

should be placed on the development of service flats and nursing homes.

(c) In planning future homes, these questions should be clarified:

- What is the optimal size of a home?
- To what extent is there a danger of segregation in the construction of combined units?
- Which form of combined homes is the most practical: the three-stage home (service flats, old people's home, nursing home) preferred in the Federal German Republic, or the new system in Denmark of service flats, including nursing help, nursing home, and old people's center?
- Does the Danish system make unnecessary the future existence of old people's homes as such?

(d) The development of a home as the focus for the elderly living in nearby neighborhoods—whether as a day home or a social club—should be included in every planning program.

(e) The continuing improvement of standards will create an ever-increasing demand for additional facilities in homes, e.g., workshops, physiotherapy and exercise rooms, rooms for hairdressing and chiropody, social rooms on every floor (in nursing homes and infirmaries as well), rooms equipped for preparation of hot snacks and drinks, guest rooms for visiting relatives, and a cafeteria or cafe for residents, guests, and personnel.

4. Home Management and Personnel

(a) There now exists no clear outline of the duties and responsibilities of the director in regard to possible fields of training specialization.

(b) Within a certain fixed period of time every home should be managed only by a director or matron who has a degree and an adequate amount of relevant experience. This rule should apply to all categories and sizes of homes. A director should even now be required to continue receiving additional training, and his status and salary should be related to the level of his education and training.

(c) Other leading personnel and the nursing staff should also receive further training.

(d) Every home should employ its own home doctor, under certain circumstances on a part-time basis, to oversee medical and nursing care.

(e) Every home should employ at least one qualified nurse. If a particular home did not require her services full-time, she could be employed in several to provide rotating service.

(f) All legal regulations should stipulate minimal requirements regarding the necessary ratio of nursing personnel to residents or patients. (The institution of the elderly person's attendant, *altenpfleger*, in Federal Germany has resulted in a substantial decrease in the working load of qualified nursing personnel. The introduction of similar types of paramedical training and activity will also be necessary in other countries due to the present shortage of personnel.)

(g) Where this is not already the case, personnel from the following professions should be appointed in homes: occupational therapists, physiotherapists, dietitians, directors for leisure activities and hobbies, and social workers. The smaller and medium-sized homes could cooperate in hiring and sharing such specialists.

5. Residents

(a) In all countries commissions should be appointed to decide on a person's entry into or departure from a home. This commission should include a doctor and a social worker. The resident must have the right to appeal such a decision. A person may be removed from a home only when similar alternative accommodations have been found.

(b) Every resident has the right to a formal contract and to a monthly billing and statement of his account.

(c) Due proportion must exist between fees charged and services and benefits provided.

(d) There should be a general introduction of the practice of allowing residents to participate in the home's internal operation.

(e) The resident must have the right to file a complaint, with the guarantee that it will be examined objectively and confidentially and will entail no adverse consequences for him. The office of an ombudsman in the field of assistance to the aged should be considered.

(f) Every resident should have the right to a private room if he desires one.

(g) Residents should have a choice of several dishes at mealtime.

A number of these varied proposals is ready in force in some European countries, but much remains to be done. Not all of these measures can be realized everywhere in the near future. However, the rise of a social consciousness in regard to the aged and the present speed of social and economic development spark the hope that their realization lies in the not too distant future.

Footnotes

1. Percentage of the elderly (age 65 and over) in comparison to the total population (in round figures):

Country	%
Holland	10
Denmark	11
England	12
Switzerland	12
German Federal Republic	12.5
Sweden	13
France	13.5
Austria	14
German Democratic Republic	19.5

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Addendum

New Federal German Legislation on Homes for the Aged

EFFECTIVE JANUARY 1, 1975, old people's homes, services flats for the elderly, and nursing homes for adults in the German Federal Republic are subject to provisions of new legislation passed unanimously by the Federal German House of Representatives on June 11, 1974. These provisions correspond exactly to the draft laid before the House by the Commission for Youth, Family, and Health on May 9, 1974, but contain modifications of the original draft introduced by the Senate (*Bundesrat*) on February 14, 1973. The most important of these changes are listed here by subject matter. These modifications should be noted to update references made previously in this report to related provisions of draft legislation under consideration at the time when this manuscript was being prepared.

1. Field of Application

With regard to institutions concerned with professional rehabilitation (which as such do not fall within the framework of the law), the provisions of the new law apply to those sections of these institutions which serve to accommodate the elderly as well as handicapped adults or others in need of care.

2. Aims of the Legislation

Whereas in the draft legislation the purposes were specified as intended to "guarantee the physical, intellectual, and spiritual well-being of residents," a more cautious definition has been substituted: "The interests and needs of residents must in no way be prejudiced." The reference in the draft to another legislative aim—"to prevent any extraordinary discrepancy between the fees charged and the services provided"—has been altered by striking the term "extraordinary." Moreover, it is now specified that one purpose of the new legislation is to promote counseling of residents and home authorities and to ensure the reimbursement of fees paid by residents in those cases where such reimbursement is due.

3. Minimal Requirements

Whereas it was originally proposed that minimal requirements be laid down by legal ordinances in the various Federal states, the new law requires that these ordinances be issued by the German Federal Republic. Special emphasis is also laid on the fact that the minimal requirements extend to the provision of therapy rooms.

4. The Situation of the Resident

The individual resident receives more consideration in the legislation than in the draft due to the following three stipulations in particular: an obligatory contract of residence; collaboration of residents in home affairs; and protection against financial abuse (see also No. 11 in this addendum).

A contract of residence is to be drawn up in the future in every instance between the applicant and the home authority. This also applies to entrance into homes of a public nature where reference can be made in the contract to regulations which may be in force.

Considerable importance was attached without exception by 11 parties and organizations to the issue of collaboration by residents in the affairs of the home. Whereas the draft spoke of it as "participation," the law calls it "collaboration." This provision in the law reads: residents in institutions named in this legislation are, by means of a Home Council, to collaborate in the following sectors concerned with the running of a home: accommodations; conditions of residence; home regulations; board; organization of leisure activities.

Their collaboration is to extend to affairs touching the administration and the commercial aspects of the institution in those cases in which the home authority has received a financial subsidy in connection with the accommodation of a resident.

5. Licensing

The law contains a new stipulation that an application for a license to operate an institution for the aged must be accompanied by sample contracts and the articles of the home authority's charter. The same is true for the notification required for the commencement of a home's activities.

The regulations for cases involving license refusal have been completely changed and extended. In the cases

where they have been changed, the regulations are now worded:

A license is to be refused in those cases where

1. . . . . .
2. the interests and needs of the residents, with particular reference to medical care and hygiene, are not guaranteed.
3. the tending of those in need of care is ensured neither in the institution itself nor in any other suitable way.
4. adherence to the minimal requirements is not guaranteed.
5. an examination of the documents forwarded reveals that
   a. a discrepancy exists between the proposed services and the fees charged
   b. adherence to the regulations laid down in Par. 14, art. 4, governing the protection of loans, etc., for purposes of financing and accommodations is not guaranteed.

6. Notification Obligation

The authorities must now be notified immediately of any essential modifications in the conditions of contract.

7. Bookkeeping, Registration and Reporting Obligations

The obligation of the home authority to keep orderly accounts is now expressly stated.

8. Participation in Supervision and Control

As proposed in the draft, the new law specifies that the regional welfare organizations and associations have the right upon application to participate in the supervision and control of homes operating under their auspices. However, the law rejects the proposal in the draft whereby the supervision and control of an institution can be delegated to a regional welfare organization.

9. Information and Inspection

The draft proposal in this regard has been limited: the right of the authority, entrusted with supervision, to enter the properties and premises of the institution is limited in principle to the normal operating hours of the home. Exception may be made to this ruling only to prevent imminent danger to the public safety and order.

10. Counseling (hitherto Counseling, Injunctions, and Directives)

The regulations on counseling have been considerably extended. This is due to a structural change in the legislation which resulted from relevant negotiations: the idea has developed progressively that supervision involving inspectors and home authorities and collaboration involving residents and home authorities are activities requiring a steady exchange of information, consultation, and counseling aid. Information is to be provided to persons who have a rightful interest thereto about homes and the rights and obligations of the residents. Counseling is to be provided to persons and authorities who wish to set up or run a home and should cover both the planning and operation of the home. In this context there follows the important regulation that when shortcomings in a home have been revealed, the supervisory authorities are to counsel the home authority, together with its parent organization, on ways to remedy deficiencies. Only if this attempt to cooperate in making improvements should fail are the authorities to intervene to enforce modifications.

11. Financial Advantages

Here too, the regulations have been considerably extended in comparison with the draft.

Exceptions to the draft proposal forbidding donations to the home authority can now only be made for purposes related to the common welfare or in fulfillment of moral obligations, and then only with the specific permission of the competent authorities.

Of particular importance are regulations guaranteeing loans, prepayments, and other financial services, especially those relating to the future purchase of property or accommodations. These guarantees are significant in view of a series of losses in recent years due to dishonest or incompetent business practices, sometimes resulting in present or future residents losing their total savings. The following stipulations apply:

Fees paid by residents are to be reimbursed when due.

The Federal Government is authorized to specify in legal ordinances the obligations of the home authority when it is the beneficiary of such financial assistance, particularly with regard to (a) guarantees, (b) separate administration of the capital, properties, etc., and (c) written information concerning, in particular, the guaranteeing of reimbursement claims (this information is to be provided to the applicant before signing a residence contract). The legal ordinance can also limit the right of the home authority with respect to accepting and using money or properties in question. It can also make a more exact ruling on the repayment period. Within the terms of the ordinance the home authority may also be obliged to submit to a regular inspection at its own expense to ascertain if it is meeting its obligations arising from the acceptance of such finances, etc. In these cases

it must forward a relevant report to the authorities if necessary in the interests of effective supervision. Failure to observe these regulations can be considered grounds for withdrawal and cancellation of a license and the closing of a home. It can also constitute an offense against the law.

12. Implementation of the Legislation

As first proposed, the implementation of the legislation remains the responsibility of the individual states who appoint the competent authorities. The new law, however, expressly emphasizes that its implementation must be entrusted to persons suited to this task by their particular personalities, training, or experience.

13. Issuance of Ordinances for Implementation

Provision is made in the text of the law for the appropriate authority to issue the following legal ordinances (obligatory or optional) to implement the law:

To the Federal Government is allotted the:

- Designation of the types of institutions to be considered as similar (optional ruling).
- Stipulation of minimal requirements with regard to rooms, communal areas, sanitary installations, suitability of the director and employees, including the number to be employed (obligatory ruling).
- Regulations governing the election of the Home Council as well as the type, extent, and form of the residents' collaboration (obligatory ruling).
- Regulations on the nature and extent of bookkeeping obligations of the home authority, the obligation of notification as regards staffing, the number of places occupied, cases of death, and particular incidents (optional ruling).
- Regulations on the participation of the regional voluntary welfare organizations in the process of supervision and control (optional ruling).
- Regulations on the obligations of the home authority in accepting donations, financial services, etc. (optional ruling).

To the states is allotted the designation by the individual state government of the authorities to be entrusted with the implementation of the legislation (obligatory ruling).

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